

APR 23 1979

MICHAEL RODAK, JR., CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1978

NO. **78-1611**

MINTA H. REICHEL,

Petitioner,

vs

CALIFORNIA SUPREME COURT and
COURT OF APPEALS OF THE THIRD APPELLATE
DISTRICT IN THE STATE OF CALIFORNIA,
CALIFORNIA SHASTA COUNTY SUPERIOR COURT,
CALIFORNIA SHASTA COUNTY BOARD OF TRUS-
TEES OF THE SHASTA COUNTY LAW LIBRARY,
Respondents,

ALVIN M. CIBULA, et al,

(California Shasta County #54512, PENDING)
and

CALIFORNIA SHASTA COUNTY SUPERIOR COURT
JUDGES, et al, (UNITED STATES DISTRICT
COURT, EASTERN DISTRICT OF CALIFORNIA
CIVIL S79-73-TJM, PENDING)

Real Parties in Interest.

MOTION FOR LEAVE TO FILE ANNEXED PETITION FOR
WRIT OF MANDAMUS AND/OR IN THE ALTERNATIVE,
PROHIBITION FOR DETERMINATION IN CONSTITUTIONAL
LAW AND CIVIL RIGHTS ACT OF 1964: MOTION FOR
LEAVE TO JOIN ACTION #58025 FOR REVIEW BY WRIT
OF CERTIORARI, MOTION TO VACATE JUDGMENT UNDER
RULE 60(b)(4); MOTION FOR STAY OF PROCEEDINGS
IN AFORESAID ACTIONS PENDING COURT DETERMINATION.

MINTA H. REICHEL

PETITIONER IN PROPRIA PERSONNA

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IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1978

MINTA H. REICHEL, *Petitioner,*

vs

CALIFORNIA SUPREME COURT,

vs

COURT OF APPEALS OF THE THIRD APPELLATE
DISTRICT OF THE STATE OF CALIFORNIA,

vs

CALIFORNIA SHASTA COUNTY SUPERIOR COURT,
Respondents,

ALVIN M. CIBULA, deceased and FRANKLIN S. CIBULA, individually and as former co-partners doing business under the firm name and style of CIBULA & CIBULA, a co-partnership; ANNE M. CIBULA, as EXECUTRIX OF THE WILL AND OF THE ESTATE OF ALVIN M. CIBULA, deceased; DOE I through DOE III, inclusive, *Real Parties in Interest.*

(SHASTA COUNTY ACTION #54512 PENDING IN CALIFORNIA SHASTA COUNTY SUPERIOR COURT: As APPEALED 3 CIVIL 16644, Dismissed as non-appealable by the Court of Appeals of the THIRD APPELLATE DISTRICT OF CALIFORNIA).

and

CALIFORNIA SHASTA COUNTY SUPERIOR COURT JUDGES, AS FOLLOWS: HONORABLE JUDGE CLYDE SMALL, HONORABLE JUDGE RICHARD W. ABBE, HONORABLE JUDGE RICHARD B. EATON (retired) HONORABLE JUDGE WILLIAM H. PHELPS: CALIFORNIA SHASTA COUNTY BOARD OF SUPERVISORS, HENRY KEEFER (retired), BESSIE L. SANDERS, PATRICK LA POINTE, (retired), JOHN R. CATON, R.D."DAN" GOVER, SUSAN L. EVANS, STEPHEN C. SWENDIMAN, OFFICIALLY elected/appointed duly employed County employees and ex officio members of the Shasta County Board of Directors of the Shasta County Law Library; ROBERT A REHBERG, Shasta County Counsel (retired, duly appointed, employed Shasta County Counsel; LAWRENCE W. CARR, ALBERT F. CUNNINGHAM, TODD C. FINEBERG, Attorneys at Law, individually and officially appointed members of the California Shasta County Law Library Board of Directors; DOES ONE through ONE HUNDRED, inclusive,

Real Parties in Interest,

(ACTION # CIVIL S79-73-TJM FILED ON January 29, 1979 and PENDING IN THE UNITED STATES DISTRICT COURT OF THE EASTERN DISTRICT OF CALIFORNIA: FIRST AMENDED COMPLAINT LODGED NAMING ADDITIONAL DOES).

and

CITY OF REDDING, a municipal corporation; and employees of the CITY OF REDDING, CARL ARNESS, Director of City of Redding Department of Public Works; JACK LANG, Assistant to Director of Dept. of Public Works; ENGBARD NIELSEN, Engineer Inspector; ROBERT GALUSHA, Street Superintendant; appointed official City of Redding Planning Commissioner of 1970 WILLARD W. WOODWARD and

Blank-Printed Richel

.....oo.....

JANE WOODWARD, his wife, WOODWARD AND NICHOLS, a co-partnership; EUGENE LAVOY NICHOLS and TAMMY JOY NICHOLS, his wife; appointed official Shasta County Planning Commissioner of 1970 EDWARD H. OCHINERO and BEATRICE OCHINERO, his wife; OCHINERO CONSTRUCTION COMPANY, INC., a corporation; DOE ONE through DOE ONE HUNDRED AND NENETY-NINE inclusive,
Real Parties in Interest,

(Denial by the California Supreme Court of petition for hearing of decision of Court of Appeals of the Third Appellate District of California in 3 CIVIL 17535 from Shasta County Action #58025).

FOR A DETERMINATION IN CONSTITUTIONAL LAW AND CIVIL RIGHTS LAW; PETITIONS FOR WRITS OF MANDAMUS AND/OR IN THE ALTERNATIVE, PROHIBITION, WRIT OF CERTIORARI FOR REVIEW OF DECISION IN 3 CIVIL 17535, MOTION TO VACATE AND SET ASIDE AND STRIKE FROM THE RECORDS OF THE LOWER COURTS IN FEDERAL RULE 60(b)(4); 28 USC 1257(3), 28 USC 1331, 28 USC 1343, 28 USC 1651, 28 USC 2101(e); PRAYER FOR ISSUANCE OF WRITS.

MINTA H. REICHEL, petitioner (hereafter referred to as REICHEL, respectfully Motions this United States Supreme Court for permission to file the annexed petition for writs to correct the deprivation of constitutional and civil rights, under the United States Constitution First, Fifth, Thirteenth and Fourteenth Amendments (*Windsor v McVeigh* (1876) (93 US 274, 277, 278); *Slavin v Curry etc, et al*, (1978) (574 F2d 1256).

Irriparable harm was and is being done to REICHEL, as a non-lawyer litigant in propria persona who had limited and restricted use of the law library in preparation for filing documents, present issues to court, denied access to law books prior to and during court proceedings, by the local rule of the Shasta County Law Library Trustees to close the law library to the public, including to REICHEL a non-lawyer litigant appearing in pro per, except for two (2) hours per day, five days per week (Appendex N, infra).

Following REICHEL'S request for time extension to file petition for hearing to California Supreme Court, January 23, 1978, the sign¹, was removed from the law library door, the public is now told by Honorable Judge Phelps secretary, who now has her desk therein, that the public is allowed use of library from 1PM to 5PM daily, but REICHEL continues to be denied access prior to that time.

The basic statutes, codes, forms for procedures continue to be circulated to lawyers, non-lawyer litigants as REICHEL are therefore denied the books.
 1...Appendex N (Statement of case), infra, p37;

Once, REICHEL requested the Auditor's office to return a volume of West's California Codes Annotated which they had checked out for two weeks.

PENDING ACTIONS (#54512, CIV-S79-73-TJM, supra) make the determination of this Court of great importance to REICHEL. Defendant lawyer (#54512) and defense counsel in both actions are able to check out books that REICHEL needs,² in presentations to court in the aforesaid actions.

Since 1970 REICHEL has been attempting to protect her property and property interest rights... REICHEL has repeatedly throughout her actions requested a decision on her right of library law book use³.

Other citizens have been denied as non-lawyer litigants in propria persona; county citizens have been forced to use out of town law libraries

as REICHEL⁴, and other concerned citizens wrote

2. Def.counsel CIV-S79-73-TJM checked out (undated card)appr.10 days Benson's Forms Federal Practice Vol.2 which REICHEL also needed; therefore REICHEL late in filing First Amend.Complaint (20 days from original filing),now requires add.hearing, First Amend. Comp. lodged.

3. Actions #54512, 3 Civ 16644; #54513, 3 Civ 16668; #58025, 3 Civ 17535; Action for denial Civ S79-73-TJM

4. Victor Lochman Appendix R,R1,R2,R3,pp61-71;

in reply to REICHEL'S ad⁴.

On May 7, 1976 REICHEL filed concurrently Actions #54512, #54513⁵, thereafter requested by letter more than two (2) hours use of the law library⁶. The events within actions and thereafter may best be understood by reading basis for Civ-S79-73-TJM⁶.

REICHEL is aware that a suit in equity may be the correct procedure to erase, vacate, expunge and strike the dismissals, judgments of the courts from the records for the deprivation of constitutional, civil and human rights. And with equal opportunity and equal protection of the laws, equal access to the courts, equal freedom to speak intelligently on the issues through research of codes and case law, this matter should not have been so time consuming,⁷ nor required action against Judges et al.⁶

REICHEL has since become a Senior Citizen -----

---How much longer must she seek justice?

4. Appendix S-S7,pp 72-78;

5. #54512-Legal Malpractice,Fraud,Warranty,Breach of Contract: #54513-Trespass and Encroachment, Inverse Condemnation;

6. Appendix N1-17,pp37 and 37-59;CIV-S79-73-TJM;

7. Notice of Appeal by Petition for writ of mand- and/or prohib. 3 Civ 16644, 3Civ16668

Therefore, out of consideration of time and monies already spent, REICHEL motions this court to grant permission to file the annex petition for review by certiorari of #58025, 3 CIVIL 17535⁸, which the lower court have stated is barred by res judicata and collaterally estopped by Action #42361 (Reichel #1)⁹, Action #54513 (Reichel #2)¹⁰, without jeopardizing Action CIVIL S79-73-TJM.

REICHEL motions this court to grant joining Actions #54512, #54513, and #58025 as involving the same common nucleus of fact, for the determination of constitutional law, civil and human rights within the meaning of the First, Fifth, Thirteenth and Fourteenth Amendments of the United States Constitution, the Bill of Rights of 1871, Civil Rights of 1964, California Constitution Article 1, Sect-

ions 7, 9, 14, 21 as being related to Action #42361

8. Trespass and Encroachment, Inverse Condemnation Concealment, Fraud

9. #42361 by Cibula & Cibula, negligence in creek clean-out, construction; motioned discharge granted, REICHEL forced into pro per, appealed decision 3 CIV 14495; also basis for legal malprac. fraud, warranty, breach of contract #54512

10. #54513 - Trespass and encroach., Inverse Cond.

This Court has the inherent power to correct the abuse of discretion in excess of jurisdiction which abridges the constitutional rights of people's access to the courts, denies a fair and impartial hearing within due process of law, freedom of speech, equal protection of the law, and in effect, force people and REICHEL into a form of involuntary servitude to seek the services of a lawyer; if unsuccessful (as REICHEL) stand in propria persona and then lose by forcing them to work under such severe restrictions and limitations as to fail through incorrect court procedures and codes.

It is within the jurisdiction of this Court to grant REICHEL'S motions to file the annexed petitions, to join the actions, to stay the proceedings, which REICHEL also requests and motions this court to do, pending the determination of this Court of the questions presented, without jeopardizing REICHEL'S action #CIVIL S79-73-TJM.

REICHEL motions this Court to direct the Court of Appeals of the Third Appellate District of California and the California Shasta County Superior Court to convene a court to vacate, set aside and strike from their records, the judgments in #54512, #54513, #58025 and related appeals 3 CIVIL 16263, 3 CIVIL 16668, 3 CIVIL 16644, as being void judgments under Federal Rule 60(b)(4), or, remand to the lower courts to allow REICHEL to present a suit in equity to erase and void such judgments.

"...For jurisdiction is the right to hear and determine, not to determine without hearingBy the act of the court the respondent" ..(REICHEL herein), ."was excluded from its jurisdiction! (*Windsor v McVeigh* (1876) 93 US 274, 277-278, 283-284), Moores Federal Practice, Void Judgments pp 309).

REICHEL has made a sincere effort to obtain a decision in law regarding the use of county law books, the use of which she paid a fee required by California law(infra), the deprivation of freedom of speech, due process of law and equal protection

of the law.

REICHEL has exhausted all remedies available to her, has not delayed in her efforts to obtain a determination in law on use of law books by lawyer and non-lawyers alike.

REICHEL believes this matter is of utmost importance to all United States citizens and residents, who like REICHEL, are not lawyers, nor members of the judiciary, nor Federal, State, county or city official/employees, regardless of color, race, class, religion or national origin, who are not assisted with Legal Aid, nor have county counsel appointed for them, who, for whatever their reasons, need access to county law books and/or have entered the courts in propria persona seeking justice; for we are a people governed by law--- not by a people.

WHEREFORE, MINTA H. REICHEL, petitioner herein, respectfully prays that she be granted permission to join actions aforementioned, file petitions for writs of mandamus and/or prohibition and certiorari, and the motion to direct to lower

to vacate the void judgments as motioned, as requested herein and /or annexed hereto, under authority of Sections 1247, 1331, 1343, 1651, and 2101(e) of Title 28 of the United States Code, and as motioned under Federal Rule 60(b)(4).

DATED: April 16, 1979

Minta H. Reichel
MINTA H. REICHEL,
Petitioner, appearing
Propria Personna

VERIFICATION

State of California County of Shasta,

I, the undersigned, am the petitioner requesting permission to file this petition and motions aforesaid:

I have written the above petitions and Motions as herein presented and know their contents. The foregoing statements herein and petitions as annexed hereto are true of my own knowledge, except as to those matters that are stated in it on my

information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the above is true and correct.

DATED April 16, 1979

Minta H. Reichel
MINTA H. REICHEL
Appearing in pro per
P.O. Box 2304
Redding, Shasta County
California 96001

OPINIONS BELOW

The California Supreme Court denied REICHEL'S request for hearing on January 24, 1979¹ of the "NOT TO BE PUBLISHED" decision of the Court of Appeals of the Third District of the State of California², in 3 CIVIL 17535, from California Shasta Action #58025, in which it stated:

"*Plaintiff's contention that restricted use of the law library constitutes a denial of due process and equal protection of the laws is not properly before us. (Calif)Code Civ.Pro.904.1)."

California Shasta County Superior Court dismissed Action #58025 (REICHEL #3)³ without leave to amend as barred by res judicata and collaterally estopped by Action #54513 (REICHEL #2)⁴, appealed as 3 CIVIL 16263, petition for rehearing denied⁵, in their decision the Court of Appeals stated:

"....regarding her limited use of the law library is not supported by citation to case authority and therefore deemed to be without foundation."⁶

1...App. A, p.1; 3...App.C,p.10-12; 5...App.E,p.21
2...App. B, pp.2-9; 4...App.D, p.21 ; 6...App.D,p15-20

Case authority regarding use of law library as related to constitutional law seem to be limited to only one civil case ; a few criminal cases.

REICHEL'S request for extension to file petition for hearing before California Supreme Court⁷ denied⁸; REICHEL'S letter requesting relief from default denied⁹ February 3, 1978.

Following additional property damage REICHEL filed Motion to Vacate dismissal, 3 CIVIL 16668 and Notice of Appeal by Petition for Writ of Mandate (numbered 3 CIVIL 16705 but reassigned and combined with 3 CIVIL 16668), dismissed without determination September 23, 1977¹⁰.

Action #54513 was determined barred by res judicata and collaterally estopped by Shasta Action #42361 (REICHEL #1)¹¹.

Action #54512 was based upon events within Action #42361, for legal malpractice, fraud, warranty and breach of contract¹².

7...App. F, p.22,infra; 11...App.K, pp.27-29;
8...App. G, p.23,infra; 12...App.M, p. 36;
9...App. H, p.24,infra;
10...App. I, J, pp 25-26,infra;

REICHEL attempted to obtain a decision in law for discoveries, expunging les pendes, use of law library in Shasta Action #54512, but again erred in filing Notice of Appeal by Petition for Writ of Mandamus/prohibition¹³, but worked under the severe restrictions of law library¹⁴, illness, petition struck by California Court of Appeals of the Third District¹⁵, having been filed as an appeal rather than a petition, although intent was very clear; and which REICHEL attempted to correct after finding citation¹⁶, but failed; no decision regarding REICHEL'S right to equal county law library use as her opponent in #54512 was given.

On January 29, 1979 REICHEL filed Action in the United States District Court of the Eastern District of California CIVIL S79-73-TJM PENDING, letter of claim and complaint required by California law annexed hereto as appendix¹⁷.

Certified copies of aforesaid actions submitted.

13..App.M, pp 36; 15..as in App. J, p26;

14..App. N pp 37-59, ibid

16..Freidberg v Freidberg -9 C.A.3d 754;88CaRtr.451

17..App.N, pp. 37-59, ibid

JURISDICTION

The questions presented within this petition are for a non-lawyer litigant's right to use the county law library for which she has paid a fee as required by California law, and, her right as a county resident to use the law library in preparation to file a complaint in the Superior Court, equally, as is given lawyers also appearing in propria persona on their own business in court or as representatives of litigants, or as county residents.

The California Supreme Court denied petitioner REICHEL'S petition for hearing on January 24, 1979 (Appendix A, infra) of the decision of the Court of Appeals of the Third Appellate District of California in 3 CIVIL 17535 dated November 27, 1978 (Appendix B, infra). The jurisdiction of this court is invoked under 28 USC Section 1257(3), for a determination in constitutional law within the action.

REICHEL'S PENDING ACTION #CIVIL S79-73-TJM based upon the deprivation of constitutional law and equal rights (supra) and involving damages for loss #54513

the loss of #58025 and PENDING ACTION SHASTA #54512 before the California Superior Court of Shasta County, the jurisdiction of this Court is invoked under 28 USC Section 2101(e); both being in excess of \$10,000.00 jurisdiction is invoked under 28 USC Section 1331.

REICHEL'S Motion for permission to file petitions for writ of mandamus and/or in the alternative, prohibition to this Court is invoked under 28 USC 1651, for determination in law.

REICHEL'S requests for determination of Constitutional law and Sections 1983, 1985, 1986, 1988 and 2000a-1 of Title 42 of the United States Code is invoked 28 USC 1343, for equal use of county law library for which she has paid by California Business and Professional Code Sections 6301, et seq, 6321, 6322.1, 6324, 6360, infra.

CONSTITUTIONAL PROVISIONS INVOLVED

1. The First Amendment of the United States Constitution provides in pertinent part:

"...CONGRESS SHALL MAKE NO LAW...ABRIDGING THE FREEDOM OF SPEECH."

2. The Fifth Amendment of the United States Constitution provides in pertinent part:

"NO PERSON SHALL BEDEPRIVED OF LIFE, LIBERTY OR PROPERTY WITHOUT DUE PROCESS OF LAW; NOR SHALL PRIVATE PROPERTY BE TAKEN FOR PUBLIC USE, WITHOUT JUST COMPENSATION."

3. The Thirteenth Amendment of the United States Constitution provides in pertinent part:

"...NEITHER SLAVERY NOR INVOLUNTARY SERVITUDESHALL EXIST WITHIN THE UNITED STATES, OR ANY PLACE SUBJECT TO THEIR JURISDICTION."

4. The Fourteenth Amendment of the United States Constitution provides in pertinent part:

"...NO STATE SHALL MAKE OR ENFORCE ANY LAW WHICH SHALL ABRIDGE THE PRIVILEGES OR IMMUNITIES OF CITIZENS OF THE UNITED STATE; NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE, LIBERTY, OR PROPERTY WITHOUT DUE PROCESS OF LAW; NOR DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAW."

5. The California Constitution restates the above United States Amendments within Article I Sections 7, 9, 14, 21, which are not quoted.

QUESTIONS PRESENTED FOR

PETITION FOR WRIT OF MANDAMUS AND/OR PROHIBITION

1. Does the local rule of the California Shasta County Law Library Board of Trustees, up-held by the Superior Court Judges and Supervisors, abridge REICHEL'S rights under the First, Fifth, Thirteenth and Fourteenth Amendments of the United States Constitution and the California Constitution Article I Sections 7, 9, 14, and 21?

....Should REICHEL as a non-lawyer litigant appearing in Superior Court in propria persona have equal opportunity and access to the county law books as is given lawyer litigants and other preferred county residents?

....Did REICHEL acquire an equal property interest right to use the law library books by payment of a law library fee required by California law?

To use the law library books, including checking out books and law library use on weekends by lawyers on their own business in propria persona, as is REICHEL, a non-lawyer litigant in pro per?Did REICHEL as a county resident acquire an intangible property interest right to use law books as given other county residents?

...Did the local rule create a class discrimination between lawyer and non-lawyer litigants and county residents working within the judiciary, Federal, State and county officials, and State Bar members?

...Are the decisions and judgments in actions denying constitutional guarantees valid, or may they be struck from the records, vacated, and remanded to the lower court for rehearing as in Actions #54512, #54513 and #58025 as appealed?

2...Was it the intent of Congress within the Civil Rights Attorney's Fees Awards Act of 1976 to award the prevailing party attorneys fees only within the costs of suit; if so, would it be manifestly

unjust to so apply the Act and deny this non-lawyer in pro per as prevailing party her loss of income in addition to the costs of suit while attempting to protect her constitutional rights?

QUESTIONS PRESENTED FOR

PETITION FOR REVIEW BY WRIT OF CERTIORARI

1...Notwithstanding the foregoing determinations, may this Court review the decision of the California Supreme Court denying REICHEL'S petition for hearing¹ to review decision of the California Court of Appeals of the Third Appellate District upholding the lower court's determination that action #58025 was barred by res judicata and collateral estoppel by Actions #54513 and #42361?³

...Would such a decision interfere with action CIVIL S79-73-TJM² which will determine the intent of the defendants to deny REICHEL her constitutional rights.

1... Appendix A, p.1, infra 3..Cert. Copies incl.
2... Filed January 29, 1979, certified copies inc.

STATEMENT OF THE CASE

At the outset, it may be best to describe the actions filed by petitioner herein, MINTA H. REICHEL (hereafter referred to as REICHEL), in her efforts to protect her property and property interests.

CIVIL S79-73-TJM filed on January 29, 1979 is PENDING in the United States District Court, Eastern District of California, naming defendants California Shasta County Superior Court Judges, et al, *ibid*, based upon allegations of denial of REICHEL'S constitutional rights within Shasta County Action #54513¹ and #58025², within the meaning of the First, Fifth, Thirteenth and Fourteenth Amendments of the United States Constitution, Civil Rights

Act of 1964, Sections 1983, 1985, 1986, 1988 and

1...#54513 filed on May 7, 1976, same defendants as in #42361 in which REICHEL'S attys. CIBULA & CIBULA filed alleging negligence, negligence in construction of covering of creek and installation of culvert at REICHEL'S N.E. prop. corner.
2...#58025-filed July 5, 1977 against same defendants as in #54513 and #42361 alleging Trespass and encroachment, Inverse Condemnation(as in #54513) and additionally, Concealment and Fraud by City official/employees of knowledge & fiduciary obligation to equally protect city residents;discoveries after storm & flooding of August 14, 1976.

2000a-1 of Title 42 of the United States Code³.

CIVIL California Shasta County Action #54512⁴
PENDING in the Shasta County Superior Court alleging Legal Malpractice, Fraud, Warranty and Breach of Contract against her attorneys in #42361 .

The determinations of this Court as presented in the Questions, infra, determine REICHEL'S right to use the county law library equally as is granted opponent lawyers in representing their clients in both the pending actions, supra, in her presentations in court within codes, statutes, court procedures and case law, in her efforts to protect her property and property interests rights.

REICHEL alleged in pending action Civ-S79-73-TJM the denial of her right as a non-lawyer litigant

#54512-Legal malpractice, fraud, warranty and breach of contract against former attys. for their representation in Action #42361, filed Dec. 1970, to trial court on Apr.17,1973; last day of trial Apr.19,1973 requested release, REICHEL refused saying there must be paper work to be completed; atty. motioned court for discharge, granted May 4, 1973; no local atty. would take case, rather than lose by default, REICHEL stood in pro per; thereafter, on May 22, 1973 attys. wrote stating money owed them, therefore they would do all final documents, REICHEL accepted; trial court Judge Richard W. Abbe found for defendants, REICHEL appealed in pro per Court of Appeals affirmed on May 23, 1975.

in pro per in a California Superior Court to use county law library books equally to opponents' lawyers as in Actions #54513, #58025 as appealed⁵, and #54512⁶ pending, and at each filing, paid her fees required by California law⁷, denied justice.

Defendants named in CIVIL S79-73-TJM should be responsible for damages in the amount of said suits, as decisions for denial of constitutional rights were made outside the courtroom jurisdiction and therefore was an abuse of discretion in excess of jurisdiction of members of the California Shasta County Board of Trustees of the County Law Library (hereafter referred to as Trustees)⁸.

The Trustees at their meeting in 1974⁹ determined to close the law library to the public and thereafter placed the following sign on the door of the law library located in the court house:

- 5...#54513, 3 CIVIL 16263, 16668 Appendix D-J,infra #58025, 3 CIVIL 17535, Appendix A,B,C,C1,infra
- 6...#54512, 3 CIVIL 16644, Notice of Appeal by Petition for writ of mandamus and/or prohibition
- 7...California Business and Professional Code Section 6321, 6322.1
- 8...California Business and Professional Code Section 6301 et seq
- 9...Appendix O, infra

"Law Library open to the Public 3PM to 5PM

1. Only lawyers may check out books.
2. Check out period is one week.
3. When library is closed, lawyers may obtain key from Judges' secretary's office, relock door when leaving, return key to secretary who will then check out books withdrawn by lawyers."

On May 13, 1976, REICHEL requested by letter to the Superior Court Judges ¹⁰ for additional use of the county law library to research law, but received not answer.

The judges' secretaries continued to deny REICHEL her request to use the locked law library before and during court, but granted her opponent lawyer FRANKLIN S. CIBULA appearing in court in pro per as a defendant ¹¹ as well as representing the defendants in California Probate #12612, *ibid*, until February 7, 1977¹².

On June 11, 1976 REICHEL replied by letter ¹³ to

10...Appendex N-14a,b,c, *infra*; *inc.* in all actions

11...#54512 PENDING, *ibid*

12...#54512 PENDING, *ibid*

13...Appendex N-15, *infra*, *inc.* in all actions

to Honorable Judge Richard Abbe's statement in court of presentation of REICHEL'S letter to the Trustees, that he had been voted down 3 to 1.

REICHEL continued to work under the severe limitations and restrictions of two (2) hours time to use the county law books, continued to bring the matter to the court's attention, and all her actions, appeals, attempted to obtain a decision in law from the Court of Appeals but filed Notice of Appeal by Petition for writ of mandamus and/or prohibition, in pre-argument statement required by local rule and thereafter, attempting to file briefs which were refused¹⁴, and finally, in the hearing on 3 CIVIL 16263 thereafter the decision of the Court of Appeals included the statement:

"Plaintiff's contention regarding her limited use of the law library is not supported by citation to case authority; therefore, it may be deemed to be without foundation and requires no discussion (*Solomont v Polk Dev.Co*(1966)

245 Cal.App.2d 488,496)."

14...#54512-3 CIVIL 16644; #54513-3 CIVIL 16668
#58025-3 CIVIL 17535

And in Action #58025 (Reichel #3) appealed as 3 CIVIL 17535 the Court of Appeals fined REICHEL for a frivolous complaint \$500.00 and stated:

"*Plaintiff's contention that restricted use of the law library constitutes a denial of due process and equal protection of the laws is not properly before us. (Code Civ. Proc. Sec.904.1." (California Code of Civ. Proc. Sec. 904.1).

From the closing of the law library in 1974 to the present REICHEL has continued to travel 160 and more miles one way to University of California Law Libraries at Davis, San Francisco and Berkeley, California. She couldn't continue to pay for motels so began to sleep in her van parked on city streets ---scary sometimes---, in summertime in the Sacramento valley without air-conditioning and winter time without heat----in an effort to research law to present her issues to court within the codes, procedures and court procedures.

REICHEL has lived in a "prison without walls" in her efforts to use California Shasta County law books.-

The criminals in the prisons, the destitute that qualify for Legal Aid have access to law books, counsel, and assistance, average citizens do not.

And with all this effort, REICHEL made errors within the codes, procedures, civil procedures and court procedures, which have been mentioned.

In 3 CIVIL 16263 REICHEL requested extension of time to file her petition for hearing to the California Supreme Court, which was denied¹⁵.

Thereafter, the sign was removed from the door of the law library, Honorable Judge William Phelps secretary's desk was installed, the public and REICHEL as a non-lawyer litigant, are told that the law library is open to them from 1PM to 5PM¹⁶.

Must REICHEL continue in this manner aforesaid, in her efforts to continue Action #54512 and in CIVIL S79-73-TJM, or do we as a country mean what we preach throughout the world---

"...equal justice for all--" even non-lawyers?

"Are we a government of law or of people--" lawyers?

15...Appendix D,E,F,G,H, denied; ltr.req.ext.1/23/78

The Clerk's office of the United States District Court of the Eastern District of California were without copies of the local rules, therefore, REICHEL met her dead-line of California law¹⁷, by filing a motion for permission to file complaint and the complaint on January 29, 1979, CIVIL S79-73-TJM¹⁸.

Aware that a First Amended Complaint must be filed, REICHEL returned to Redding to use Bender's Form of Federal Practice Vol.2, containing Federal form for rule 15. The volume was checked out.

Each day REICHEL went to the county law library between 1PM and 5PM, finally the secretary showed REICHEL the card --Vol.2 was checked out by a lawyer, no check out date, the signature illegible.

Finally, REICHEL again traveled to Davis, California, wrote the First Amended Complaint and prepared an answer to defense counsel Swanson's motion to dismiss under Rule 12(f). REICHEL's amended complaint was beyond the 20 days limit, and therefore was lodged.

17... California Government Code 911.2; 945.6

18...United States Supreme Court Rule 9,p5

Later, REICHEL happened to be standing at the secretary's desk when Benders Vol. 2 was returned by a secretary who stated that Mr. Swanson (defense counsel and deputy county counsel) had had the book for that period of time. By the continued practice of allowing the basic books to be checked out, REICHEL may lose her right to file a timely Amended Complaint, for which a hearing had to be noticed.

If a person were to consider the matter, any lawyer who was aware that his/her opponent needed a certain book, could check out that book and thereby deny their opponent a timely filing.

REICHEL has requested review of Action #58025 (Reichel #3) by writ of certiorari, even though denial of constitutional, civil and human rights within that action and #54513 (Reichel #2) are the basis for CIVIL S79-73-TJM; for two reasons:

1. REICHEL has become a senior citizen while attempting to obtain justice since 1970,
2. Action #58025 alleges concealment and fraud by city official/employees and others as DOES; if #58025 is simply dismissed as being res judicata

and collaterally estopped by actions #42361 (Reichel #1) and #54513 (Reichel #2), if the allegations of concealment, fraud, conspiracy and collusion of defendants continue, then the situation as in "Watergate" continues, and the city and county continues to be hurt by such actions.

REICHEL believes that this Court may accept jurisdiction and review the judgment by certiorari¹⁹.

REICHEL stated *ibid* 2, that action #58025 was filed after a letter of claim and complaint was submitted to the city²⁰ and Motion to Vacate the dismissal in Action #54513²¹, on July 5, 1977²², stating allegations of discoveries following heavy rain storm on August 14, 1976²³, which she stated in court at the hearing of demurrers of defendant City on August 16, 1976²⁴, which had again damaged her property at 1333 Chestnut Street, Redding, Calif.²⁵.

REICHEL was out of town at the time, and there-

19...Angel v Bullington

20...California Gov. Code Sec. 911.2;945.6

21...3 CIVIL 16668 Appendix J, *infra*

22...#58025 certified copies submitted

23...*ibid*, 2,

24... #54513, wherein defend.split demurrers separated by improper service -related to non-use law bks.

fore son and tenants described happenings on tape recorders, including rise and fall of waters within the channel boxed in and held back by the small culvert installation of six foot wide at the east end of REICHEL's ten foot wide channel, her retaining wall fell inwards, wooden fencing, shrubbery and storage work-shed fell into the creek, blocked the culvert mouth, flooded the surrounding area.

Inside the culvert installation some 200 feet distance under West Street were found two 12 inch wide water-mains a short distance off the creek bed floor against which rubble was stacked²⁶, in the search for witnesses REICHEL'S neighbor stated the adjoining property owners had trespassed onto his property with their parking lot and therefore, REICHEL hired an engineer and surveyed her property²⁷, the City offered to concrete over the creek bed providing REICHEL would sign-off actions and submitted plans for construction which referred to a Field Book number²⁸, REICHEL requested copies of 26...#3 CIVIL 16668 Motion to vacate dismissal, denied #58025 basis of complaint
27...#58025, certified copies submitted

specific pages of Field Books dating as far back as February 1970; with the Freedom of Information Act of 1974, the City employees could no longer refuse copies and conceal knowledge.

The city records revealed a survey of the adjoining property ordered by a City of Redding Department of Public Works employee which revealed that the city employees knew or should have known that the adjoining property owners may be building the culvert on REICHEL's property²⁸, that such possibility would have been revealed if construction had been in compliance with City of Redding Ordinance #944²⁹, letters now in REICHEL'S file no longer able to be concealed dated in July 1970 after excavation and construction begun, asking "Dear Ed" (Ochinero) whether he wanted one of two different kinds of culvert pipe....

The questions remaining to be answered are if REICHEL'S former attorney ALVIN M. CIBULA, at one time City of Redding attorney, and son
 28...3 CIVIL 16668-Motion to vacate; #58025
 29...res judicata footnote infra

FRANKLIN S. CIBULA, and previous owner of REICHEL'S property, former City of Redding Mayor Sherman Fulkerth, and adjoining landowners, then City of Redding Planning Commissioner WILLARD WOODWARD and Shasta County Planning Commissioner ED OCHINERO, and the City of Redding officials and employees still remaining city employees, and others, are in collusion to conceal as allegations in #58025 allege?

REICHEL filed Notice of Appeal by Petition for Writ of mandamus an/or prohibition; the filing stated "Appeal"³⁰ REICHEL attempted to file her petition with appeal³¹, refused³², REICHEL requested extension of time to correct papers on August 30 1977, granted, REICHEL attempted to correct error and filed correction still in hopes for a determination in law library use, Court of Appeals dismissed as non-appealable³³.

REICHEL continued to assert that denial of access to law books created errors in her presentation -
 30...#3 CIVIL 16668 appeal and petition combined
 31...originally 3CIVIL 16705 but reassigned and combined with 3 CIVIL 16668 as an appeal
 32...Appendix J, infra; dismissed as non-appeal.
 33...Appendix J, infra;

tions to court.

A review of this court of #58025 must necessarily be based upon Action #42361 (Reichel #1)³⁴ for negligence in creek clean-out and negligence in construction within the creek; #54513 (Reichel #2)³⁵ for Trespass, Encroachment and Inverse Condemnation; #58025 (Reichel #3) for Trespass, Encroachment, Inverse Condemnation, Concealment and Fraud, to be discussed in the Argument of Questions Presented.

It is easy to clear the dockets and eliminate non-lawyer litigants in pro per, for it is reasonable to assume that actions and cases presented by lawyers are on an equal basis; but lawyers ---- even the best of the best of them ---- make mistakes.

But the danger now and in the future, is the slow but sure erosion of constitutional rights until the lawyers children who do not become lawyers, are also denied their constitutional and equal civil and human rights, as are all other citizens and residents. For all the foregoing reasons and following facts, REICHEL prays this matter be decided.

ARGUMENT

I.

DOES THE LOCAL RULE OF THE CALIFORNIA SHASTA COUNTY LAW LIBRARY BOARD OF TRUSTEES, UP-HELD BY THE SUPERIOR COURT JUDGES AND SUPERVISORS, ABRIDGE REICHEL'S RIGHTS UNDER THE FIRST, FIFTH, THIRTEENTH AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION AND THE CALIFORNIA CONSTITUTION ARTICLE I SECTIONS 7, 9, 14, 21?

The California Supreme Court denied MINTA H. REICHEL (hereafter referred to as REICHEL) a hearing on the Court of Appeals of the Third Appellate District of California (hereafter referred to as Court of Appeals), in 3 CIVIL 17535^{35a} in which the Court of Appeals stated:

"*Plaintiff's contention that restricted use of the law library constitutes a denial of due process and equal protection of the laws is not properly before us. Code Civ.Proc.Sec.904.1."^{35b}

The California Supreme Court also denied REICHEL a hearing in 3 CIVIL 16263^{35c} in which the Court of Appeals stated^{35d}:

"Plaintiff's contention regarding her limited
35a ...Appendix A, p.1; 35c...Append. E, p.22,23,24
35b... Appendix B, p.6; 35d...Append. D,p.19

use of the law library is not supported by citation to case authority; therefore, it may be deemed to be without foundation and requires no discussion (*Solomont v Polk Dev. Co.* (1966). (245 Cal.App.2d 488, 496.)." (State. of the Case, *supra*).

Petition for hearing before California Supreme Court denied (App.E,F,G,H, *infra*).

Therefore, REICHEL will confine herself as the local rule, *ibid*, as related to the United States Constitution.

THE FIRST AMENDMENT OF THE UNITED STATES CONSTITUTION STATES:

"Congress shall make no law....abridging the freedom of speech....."

As recently as 1976 the United States Courts have determined that when a state acts directly or indirectly upholding a local rule, and such decision significantly affects many, constitutional amendments and restraints therein must be followed³⁶.

³⁶...*Ginn v Mathews, Sec.U.S. Dept. of Health, Education and Welfare* (1977) USCA 9th #74-2607

The clear and present danger may be the control and rule, now and in the future, by lawyers as members of a group or association as in this case, as members of California Shasta County Board of Trustees of the County Law Libraries (hereafter referred to as Trustees)³⁷, including judges who are lawyers, of non-lawyer litigants and county residents. Lawyers are simply people with an education in law in addition to their college degree, as another person in medicine, economics etc., but as lawyers in addition must have passed a bar examination, swear to uphold the laws and constitutions, and thereafter, are granted a license to practice law. That is all the license grants; not extra privilege to determine who shall have access to law books and who does not.

Our constitutional amendments state that we as a people, lawyer, non-lawyer alike, may represent ourselves, protect our properties, with equal access to court, as lawyers, defendant Franklin S.

Cibula and Frank W. Shuman^{37a}.

³⁷...Appendix BB,p101; ^{37a}..Appen.X, Y,pp.96-98,*infra*

Lawyers, who by law are members of the Trustees except for the Chairman of the Board of Supervisors (hereafter referred to as Supervisors) *ibid*, by simply denying others the use of county law books, which state the law by which we are all governed, intimidate, restrict and suppress, oppress and impair the constitutional rights of non-lawyers, by the placement of a local rule on the law library door, *ibid*, and abridge non-lawyers constitutional rights.

This Court has determined that all people have a constitutional right to equal opportunity for education and training, to work and to live, in decency and dignity, as stated within the 1st, 5th and 14th Amendments of the Constitution (*Ginn v Mathew, ibid, (1976).*..

The local rule upheld by the Superior Court Judges in REICHEL'S actions even after her letter requesting additional time to use the law library as she was a litigant in court³⁹, denies equal access to all non-lawyer litigants/county residents against California law⁴⁹ *infra* as denied to
39...Southwestern Promotions Limited v City of West Palm Beach (1972) 457 F.2d 1016

REICHEL, suppressing, oppressing, impairing freedom of speech, thereby denying rights under the First, Fifth, and Fourteenth Amendments of due process and equal protection of the law, paid for property interest rights⁴⁹, forcing non-lawyer litigants/county residents to seek lawyer's advice on minor matters, involuntary servitude under the Thirteenth Amendment of the United States Constitution, thereby abridging guarantees of aforesaid constitutional amendments.

The decisions of this court are of no value to those seeking justice, as those seeking dissolution of marriage⁴⁰, or of one prisoner assisted by another with legal documents⁴¹, or right to correspondence⁴², or opportunity to litigate⁴³, or sexual equality in court⁴⁴, or an appeal from Small Claims Court⁴⁹ *infra*. if by local rule, the litigant is denied access to books stating the law.
 40...*Bodie v Connecticut* (1971) 401 U.S. 371
 41...*Wrights v McMann DCNY* 321 F.Supp 127, citing *Johnson v Avery* (1969) 393 US 483, 21 L.Ed 178;
 42...*Procunier v Martinez* 416 US 396, 40 L.Ed.2d L.Ed.2d 224, 2225;
 43...*SuChang Haung Tang v Aetana Life Ins.Co.* #74-2611 (1975)
 44... *Reed v Reed* 404 U.S. 71 (1971).

The local rule, *ibid*, restricts and limits non-lawyer litigants as petitioner REICHEL, access to the law library no longer by the sign on the law library door but by the judges secretary in the law library who states:

"The law library is open to the public from 1 PM to 5 PM." (Appendex N, *infra*).

Until that time, the non-lawyer litigants are considered 'public' and continue to be denied access to the law books, before and during appearance in court, including those who may have appealed a Small Claims Action to the Shasta County Superior Court, as REICHEL in her original actions in Superior Court who has paid fees by law ⁴⁶

Further, anyone deprived of due process of law and freedom of speech and other constitutional amendments that deny equal protection of the law may petition the government for redress of grievances and law determinations ^{46a}.

45... State of case, *ibid*; Benson's Forms Fed. Prac. for First Amended Complaint Rule 15, to name DOES and to file within U.S. Dist. local rules.

46... *infra* FN 49; 46a... *Bridges v California* (1941 86 L.Ed.192; *Schenk v U.S.* 247 US 47, 57; *infra* FN 49

The continued practice of judges' secretaries, who may be assumed to be following instructions of their employer judges, continued to deny all non-lawyer county residents, not members of the judiciary, Federal, State, county or city officials/employees access to the county law library books, but those who may be county residents within the groups aforesaid, are granted access to the law library by California law ⁴⁶, creating another 'class discrimination' between county residents.

Therefore, a determination in law by this Supreme Court of the interpretation by the Trustees local rule, *ibid*, and continued practice, *ibid*, as to the non-lawyer litigant and the non-lawyer county resident rights as related to California law ⁴⁷ and the First, Fifth, Thirteenth and Fourteenth Amendments of the United States Constitution is needed.

THE FIFTH AMENDMENT OF THE CONSTITUTION STATES:

"NO PERSON SHALL BE ...DEPRIVED OF LIFE, LIBERTY OR PROPERTY WITHOUT DUE PROCESS OF LAW; NOR SHALL PRIVATE PROPERTY BE TAKEN FOR PUBLIC USE, WITHOUT JUST COMPENSATION."

THE FOURTEENTH AMENDMENT OF THE CONSTITUTION
STATES:

".....NO STATE SHALL MAKE OR ENFORCE ANY LAW WHICH SHALL ABRIDGE THE PRIVILEGES OR IMMUNITIES OF CITIZENS OF THE UNITED STATES: NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE, LIBERTY, OR PROPERTY WITHOUT DUE PROCESS OF LAW: NOR DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAW."

The local rule as stated on the sign, *ibid*, and the continued practice of the secretaries, abridges the amendments abridges and is repugnant to the constitution .

The local rule endangers equality within constitutional rights for all people; to give to the privileged lawyer litigants and special groups law books, including checking out books, as the sign states and the secretaries continue to practice, is class discrimination within the equal rights sections aforesaid. Equal protection of
46, 47, Cal.Bus.Pro. Code Sec. 6321, 6360. App. BB, p102
47...Brown v Western Ry 338 U.S. 294; Angel v Bullington (1947) 330 U.S. 183, 91 L.Ed. 322.

law which means a fair and impartial hearing⁴⁸, but additionally as a litigant in court paid for, and therefore had a property interest right, bought and paid for, in the use of the county law library books⁴⁹, which was taken from her, arbitrarily, maliciously, without consideration of her constitutional rights, REICHEL was denied access to court.

Litigants fees by California law may be increased which REICHEL paid in all her cases⁵⁰.

As a county resident REICHEL had an intangible property interest right in the county law books for Section 6360 states in pertinent part *ibid*:

"A law library established under the provisions of this chapter shall be free to the judiciary, to State and county officials, to members of the State Bar, and to all residents of the county, for the examination of the books and other publications at the library or its branches." (emphasis added). Constitutional

48...Windsor v McVeigh(1876) 93 US 274,277,278;
Moore's Fed. Prac;Void judgment,p.309; Rule 60(b)(4)
49 and 51; Calif.Bus.Pro.Code Secs. 6321, 6360, *ibid*
50...#54512, #54513, #58025, as appealed
52-55-deleted

due process of law, equal protection of the law, actions of the judges outside their jurisdiction of their court, to abuse their discretion and act in excess of their jurisdiction with other members of the Trustees, *ibid*, then, return to their offices, cloth themselves in their cloaks of immunity, and determine the issues between the privileged lawyer, and the intimidated non-privileged non-lawyer, contrary to the constitutional rights by oath he has sworn to uphold, as in REICHEL'S actions, *ibid*, as determined by this Court⁵⁶.

The local rule of the Trustees, *ibid*, not only created great hardship but also class discrimination, for REICHEL, amounting to involuntary servitude for it is stated in:

THE THIRTEENTH AMENDMENT OF THE CONSTITUTION
 "NIETHER SLAVERY NOR INVOLUNTARY SERVITUDE ...
 SHALL EXIST WITHIN THE UNITED STATES, OR ANY
 PLACE SUBJECT TO THEIR JURISDICTION."

From October 31, 1974⁵⁷, to some time the end
 56...Davis v Wechsler 262 U.S.22,24, 68 L.Ed 143,
 145, 44 S.Ct. 310; Titus v Wallick, 306 U.S. 282,
 57... Appendix 8, infra pp60

of January 1978⁵⁸, county residents and non-lawyer litigants reading the sign on the law library door supra, denying law library use until 3PM to 5PM only two (2) hours⁵⁹, not even available to them during the accepted lunch hour periods from 11AM to 2PM, may have equated their loss of income producing work time in relation to the cost of a lawyers' time, and therefore, seek out a lawyer's help for such minor knowledge of comparison of oral or written contract, procedures for filing a simple credit claim against an estate in probate, income tax law, real estate property law, constitutional and civil rights law, which all residents have a right to know, which may or may not have required a lawyer's technical skill in litigation---or may have simply gone without the knowledge or assistance --- and determined as one lawyer stated to REICHEL, --"....take your lumps and drop itmy secretary makes more than is involved in this case...."⁶⁰

58...Statement of the case, *ibid*

59...Statement of the case, *ibid*

60...Appendex N-13a,b,c;pp 50-54;#42361 fol.Trial court granting motioned request for discharge,*ibid*

Lawyers do not pay, donate or are required by law to pay an additional fee for the use of the county law books, although it was suggested by the California legislature in relation to checking out books⁶¹, and therefore should not have special privileges in relation to their own business in court any more than another resident in pro per⁶².

A lawyer should have the privilege of refusing to take on another lawyer's case; such refusals prompted REICHEL to accept her former lawyers offer⁶³, restated in Action #54512⁶⁴.

Thereafter REICHEL stood in propria persona rather than lose by default, *supra*.

This Court has not upheld laws which may force REICHEL to seek professional help rather than be able to educate herself to help herself protect her property and property interest rights⁶⁵; that would be unconstitutional⁶⁶, amounting to invol-

61...Section 6360, *ibid*, Appendix BB pp 101-102

62...Appendix Y, Z, *infra* pp 96-98;

63... Appendix Z, *infra* pp 97-98,

64...#54512 - legal malpractice

65...Board of Regents v Roth 404 U.S. 909

66...Yick Wo vs Hopkins 118 J.S. 356

untary servitude⁶⁷, within the Thirteenth Amendment.

THE FOURTEENTH AMENDMENT STATES:

"...NO STATE SHALL MAKE OR ENFORCE ANY LAW WHICH SHALL ABRIDGE THE PRIVILEGES OR IMMUNITIES OF CITIZENS OF THE UNITED STATES: NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE, LIBERTY, OR PROPERTY WITHOUT DUE PROCESS OF LAW: NOR DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAW."

This Supreme Court has determined that when a State acts directly or even indirectly and its influence is significant, constitutional restraints must be observed⁶⁸; that a resident has a right to petition this Court for redress⁶⁹, who has the inherent power to correct an abuse of discretion in excess of jurisdiction to insure that each litigant receive a fair and impartial hearing⁶⁹, may

not ignore assertions and rule on motions as though

67...Roe v Wade 410 U.S. 1, (1973)

68...Griffin v Brechenridge, 403 US 88 (1971); McDonald v Santa Fe Trail Trans.Co., 427 US 273(1976)

69...Ginn v Mathews, Sec. US Dept.of Health, Ed., & Welfare(1977) *ibid*;

69...Bridges v California (1941) *ibid*,

all federal and state constitutional rights have been met⁷⁰.

Since early California history as related to the United States Constitution, this Supreme Court has stated that equal protection of the law cannot mean one thing for one person and another for another person⁷¹, that all people shall have equal opportunity to fully present their case⁷², to have equal protection for a fair and impartial hearing of the issues⁷³, that due process and equal protection of the law includes access to all courts⁷⁴, that there cannot be discrimination by a state or federal official in discretionary decisions within the law between people⁷⁵, there must be equal opportunity to litigate between all people, not just those represented by lawyers⁷⁶ that each of us may

expect to be given equal opportunity in education
 70...Davis v Wechsler 262 US 22, 24, *ibid*; Titus v Wallick, 306 U.S. 282, 291, *ibid*; 19 ALR Fed.Law.724.
 71...Yick Wo v Hopkins, 118 US 356 *ibid*;
 ...Regents of Cal v Bakke, 429 U.S. 1090
 72... Su-Chang Haung Tang v Aetana Life Ins.*ibid*
 73...Bodie v Connetticutt, *ibid*
 74...Hooks v Wainwright (M.D. Fla 1972) 352 F.Supp 163, 167
 75...Butz et v Economou, et al 98 S.Ct. 2894; #76-709 (1978) Scheuer v Rhodes 416 US 232 (1974)

as this Court has continually stated⁷⁷, nor can a local law create a burden upon the public⁷⁸.

Outside their court room jurisdiction, the Superior Court Judges are responsible for their actions as any other resident citizen⁷⁹, and

The local rule restricts the rights of conscience, expression and protections within the constitutional amendments and was for the public benefit, the presumption is against its validity⁸⁰.

Therefore, the local rule, *ibid*, its support by the Superior Court Judges, as stated within the decisions of the Court of Appeals, *ibid*, and as presented aforesaid by REICHEL, *supra*, is also denial of the Civil Rights Sections 1983, 1985(2) 1986, 1988 and 2000a-1, denying REICHEL'S rights within the First, Fifth, Thirteenth and Fourteenth

Amendments of the United States Constitution.

77... Brown v Board of Education, 347 U.S. 483;
 San Antonio School District v Rodriguez 411 US, 1, 30
 78...Roe v Wade, 410 U.S. 1, (1973);
 79...Butz et v Economou, *ibid*; Pierson v Ray 386 US 547 (1967) Scheuer v Rhodes 416 US 232 (1974);
 Wood v Strickland 420 U.S. 308 (1975)
 80...Fidelity & D. Co. v Arenz, 290 US 66, 68, 69;
 Tunney v Ohio (1927) 273 US 510; U.S. v CIO 335 US 106 (1927) ; Wood v Georgia 370 U.S. 375 (1962)

California Shasta County Superior Court Judge Clyde Small⁸¹ stated the law library in the court house was to supplement lawyers' personal libraries⁸², that the local rule⁸³ was ample time for research for as presiding Judge he states:

"....THE COURT: Let me tell you something. If you know what you are doing it takes ten minutes to research how to serve a paper, not two hours, not one day. People who are practicing before this Court, as lawyers or as pro pers, it is not contemplated that they will use the library as a professional library. That is a supplement to the lawyer's library of litigants and counsel before the Court...."

Yet the local rule, *ibid*, gives lawyers as litigants in court in *propria persona*⁸⁴ added advantage to research law over the non-lawyer litigant; opportunity to litigate is not equal.

81...Judge Clyde Small formerly defense counsel for City of Redding in Shasta Action #42361.

82...Appendix X, pp.89-95; inadvertantly left out or reporter's transcripts requested for #54512;

83... *ibid*

84...FN.37a *ibid*, Append. X, Y, pp 89-98;

Justice Stewart in *Landmark Communications Inc. v Commonwealth of Virginia* (1978)⁸¹:

" the government cannot take upon itself to decide who may or may not have access to information after a litigant has paid a fee."

This Court stated in *Schenck v U.S.* 247 US 47, at 57:

"The question in every case is whether the words in such circumstances are of such nature as to create a clear and present danger that they will bring about substantive evils that Congress has a right to prevent....."

Sadly, this Court is asked in this petition to determine if judges as members of the Trustees outside of their jurisdiction of their courts, may abuse their discretion, up-hold a local rule which denies justice. The intent of the California Shasta County Superior Court Judges and others will be determined in REICHEL'S CIVIL S79-73-TJM.

Accordingly, denial of constitutional rights

under the United States Constitution is a denial
81...*Landmark Communications Inc. v Commonwealth of Virginia* (1978) 56 L.Ed.2d 1;

of due process of law, equal protection of the law, as aforesaid amendments cited, and the dismissals and judgments within REICHEL'S actions are void, and should be set aside, vacated and struck from the records of the lower court⁸², as requested, for ...REICHEL was not given equal access to court, for her freedom of speech was suppressed and oppressed by the local rule, supra, due process of law was not received in actions aforesaid⁸³, her property interest right was taken and continues to be taken as a litigant⁸⁴, as a county resident her intangible property interest right has been taken⁸⁵, the Trustees in effect coerce and force her seek legal counsel which controls her right of freedom of choice and in effect, is a manner of involuntary servitude⁸⁶, there was a class discrimination created by local rule⁸⁷,

the local rule is contrary to the United States

82...#54513, 3 CIVIL 16263, 16668; 3 CIVIL 16644; #58025, 3 CIVIL 17535

83...#54512, Civ S79-73-TJM pending; #54513, #58025 as appealed;

84...Cal.Bus.Pro.Code Sec. 6321 as increased 6322.1

85...Cal.Bus.Pro.Code.Sec. 6360, 6324, 6361; 5th & 14th

86...Thirteenth Amend U.S. Const;

Constitution and abridges REICHEL'S constitutional rights⁸⁷.

The local rule continues to abridge REICHEL'S constitutional rights in presentation of her pending action #54512 and CIVIL S79-73-TJM as the local rule which did restrict REICHEL'S use to only two (2) hours a day, continues to restrict REICHEL'S use of the county law library books to four (4) hours per day from 1 PM to 5 PM, even though she is a litigant in court, and has paid her fees⁸⁸.

Therefore, REICHEL requests a determination in to correct the abuse of her constitutional rights.

REICHEL requests that a writ issue to the California Shasta County Superior Court Judges, specifically: Honorable Judge Richard W. Abbe, Honorable Judge Clyde Small, Honorable Judge William Phelps, Honorable Judge Richard Eaton (retired), and to the California Shasta County Trustees to eliminate

the class discrimination, to admit REICHEL equally
87...1st, 5th, 13th, 14th Amend. U.S. Constitution
U. of Cal Regents v Bakke U.S. #76-811; *Rinaldi v Yeager* (1966) 384 U.S. 305, 308-309; *Board of Regents v Roth*, *ibid*; *Yick Wo v Hopkins*, *ibid*; *Butz et v Econou et US*. #76-709 (1978) *Tumey v Ohio*, *ibid*
88..Cal.Bus. & Pro.Codes 6321, 6360; actions, supra

as is given lawyers, members of the judiciary, Federal, State and county officials/employees⁸⁹, appearing in court on their own personal business as their own representative; including the checking out of books excepting for basic codes, forms, and case law which should not be checked out by anyone, and therefore, available to everyone.

As Judge Clyde Small stated that the county law library is a supplement to a lawyer's personal library, supra, and therefore, would have no need to check out the basic codes, state and federal.

REICHEL further requests as stated, that California Court of Appeals of the Third Appellate District, be compelled to convene a court of Justices, to erase, vacate, and strike from their records, their determinations in 3 CIVIL 16263, 3 CIVIL 16668 from Shasta Action #54513, 3 CIVIL 16644 from Shasta Action #54512, 3 CIVIL 17535 from Shasta Action #58025; REICHEL'S United States Constitutional rights were abridged, therefore the decisions, determinations and judgments of the 89...Cal.Bus.& Pro.Code Sec.6360,ibid

the lower courts are void and a nullity⁹⁰.

II

WAS IT THE INTENT OF CONGRESS WITHIN THE CIVIL RIGHTS ATTORNEY'S FEES AWARDS ACT OF 1976 TO AWARD THE PREVAILING PARTY ATTORNEYS FEES ONLY WITHIN THE COSTS OF SUIT: IF SO, WOULD IT BE MANIFESTLY UNJUST TO SO APPLY THE ACT AND DENY TO THIS NON-LAWYER IN PRO PER AS PREVAILING PARTY, HER LOSS OF INCOME IN ADDITION TO THE COSTS OF SUIT WHILE ATTEMPTING OF SUIT WHILE ATTEMPTING TO PROTECT HER CONSTITUTIONAL RIGHTS?

Yes, it would be unjust to deny REICHEL her loss of income while continuing to protect her constitutional rights, in addition to costs.

REICHEL is requesting the amount that an attorney would be awarded if he/she spent the same amount of time as REICHEL in protecting their clients right to a fair, impartial hearing of the issues in a fair and unbiased court; who would have taken this case to the Supreme Court, 90,,,Windsor v McVeigh(1876) 93 US 274; Moore's Federal Practice, Vol.7 Void Judgments Sec.60.25[2] pp309-313; 1978-79 Supp. pp309, 311.

their client would have prevailed, the attorney would be paid for his/her time, effort and knowledge as earned income, to compensate her for her loss of income-earning-time in her regular income producing profession, in addition to her costs of suit, and, any additional compensation as this Court deems just and fair.

QUESTIONS PRESENTED FOR

REVIEW BY WRIT OF CERTIORARI THE DETERMINATION OF THE COURT OF APPEALS OF THE THIRD APPELLATE DISTRICT OF CALIFORNIA IN 3 CIVIL 17535, SHASTA ACTION #58025

I

NOTWITHSTANDING THE FOREGOING DETERMINATIONS, MAY THIS COURT REVIEW THE DECISION OF THE CALIFORNIA SUPREME COURT DENYING REICHEL'S PETITION FOR HEARING⁹¹ TO REVIEW DECISION OF THE CALIFORNIA COURT OF APPEALS OF THE THIRD APPELLATE DISTRICT UPHOLDING THE LOWER COURT'S DETERMINATION THAT ACTION #58025 WAS BARRED BY RES JUDICATA AND COLLATERAL ESTOPPEL BY ACTIONS #54513 and #42361?⁹²

⁹¹.Appendex A, p.1,infra; ⁹²..Certified copies sub. App.C,p.10-12; #54513 decision App.KK p.120;

.....WOULD SUCH A DECISION INTERFERE WITH ACTION CIVIL S79-73-TJM⁹³ WHICH WILL DETERMINE THE INTENT OF THE DEFENDANTS TO DENY REICHEL HER CONSTITUTIONAL RIGHTS?

PART I.

REICHEL has requested review by certiorari of California Shasta County Action #58025⁹⁴ as appealed 3 CIVIL 17535⁹⁵ as being barred by res judicata and/or collaterally estopped by California Shasta County Action #54513⁹⁵, appealed as 3 CIVIL 16263⁹⁶ and 3 CIVIL 16668⁹⁷, which are the basis of the action in the United States District Court, Eastern District of California CIVIL S79-73-TJM⁹⁸ in which REICHEL states that had she had equal opportunity and equal access⁹⁹ to the California Shasta County Superior Court that the facts in the actions, supra, would have proven that California

93... Cert. copy under sep.cover; TJM taken senior status,new judge will set new calendar by end June
 94...App.C, pp. 10-12, supra;
 95...App.B, pp 2-9,supra;
 96...App.D, pp 15-20,supra;
 97...App.J, p. 26,supra;
 98...supra, cert. copies all actions under sep.cov.
 99...CIVS79-73-TJM, supra;

Action #54513 nor Action #58025 supra, were not barred by Shasta Action #42361¹⁰⁰ as appealed 3 CIVIL 14495,¹⁰⁰ as REICHEL's constitutional rights abridged.

The State courts are may make appropriate law and decisions, but are subject to the United States Constitutional restraints¹⁰¹, or may be attacked.

The dismissal without leave to amend in Action #54513 (REICHEL #2) was obtained by the defendant within unconstitutional hearings, repeatedly brought to the attention of the court, aforesaid, which does not need to be belabored here, but are a nullity¹⁰².

The dismissal without leave to amend in Action #58025 (REICHEL #3) was obtained by defendants under similar unconstitutional hearings.

Even though this Court determines that REICHEL'S constitutional rights were abridged and grants

REICHEL'S request to issue writ for mandamus and/

or prohibition, and further determines that the

100...3 CIV 14495 App.L, pp.30-35; order App.K, pp 27-29; Memo of decis. App.T, pp 79-82; FF&C/L App.U, pp 83-86; Order 42361 App.V, p87; Add.req.for FF&C/L denied App.OO, pp 126;

101...Moore's Fed. Pract. Vol.1B; pp 904-911; *Hansberry v Lee*, (1940) 311 US 32; *Slaven v Curry* (1978) *ibid* 102...supra, pp 56 FN 90

lower courts shall vacate and strike from their records the decisions and judgments in Actions #54513 and #58025.

REICHEL requests review by certiorari of #58025 as she has been involved in this since the filing of California Shasta Action #42361 in 1970.

Although defendants intent may be determined in CIV S79-73-TJM, REICHEL believes the prevailing party will appeal the matter to this Court.

Therefore, in consideration of time and money the decisions and judgments in California Shasta #42361 (Reichel #1), #54513 (Reichel #2) must be analyzed to determine whether they barr by res judicata and collaterally estopp #58025 (Reichel#3)

Prior to installation of culvert covering Calaboose Creek the heavy rainstorm waters spread out into a small swale on defendant's adjoining property. Not until after the installation of the six (6) foot wide culvert at the east end of REICHEL's ten (10) foot wide natural creek bed channel 105 feet long, did the accelerated erosion

of her natural creek bed appear.

At the trial court hearing of Shasta Action #42361 defendant's expert in hydraulics Everd A. McCain on April 19, 1973 responded to questions regarding erosion under REICHEL's retaining wall on July 20, 1972 to be:

"Q: And were you there in 1972? A: Yes

"Q: How many times? A: July 20th and Nov. 7, 1972.

Q: Would you generally describe to the court what the condition of the scouring at the foot of the wall was when you first saw the situation?

A: It was undermining the concrete wall on the south side of the creek. The concrete wall on the north side was relatively untouched. The horizontal depth of undermining varied from nothing to as much as nine inches"¹⁰³.

By cross examination by REICHEL's attorney Franklin S. Cibula¹⁰⁴:

"Q: What is the level of that scouring right now? A: It has increased slightly since my first investigation, I would say in the neighbor-
103...#42361, R.T. pp 380, line 17, 18;
104...#42361, R.T. pp 388, lines 9 - 14;

hood of three inches, perhaps. Q: ...What would you attribute that to? A: Natural scouring ability of the stream....."

On recross examination defense counsel for City Clyde Small: "Q:would it be your advise to have the wingwall? A: You should definitely have a wingwall. Q:.....Would you say it makes a better situation, from the standpoint of hydraulic flow in that area, than you have without it? A: It makes a better situation downstream. It does create an erosion potential immediately upstream. Q: You are talking about a distance how far upstream? A: Oh, one to two feet. Q: How about two percent the length of the whole wall? A: I didn't measure, but... Q: (Interposing) Well, assuming the wall is 105 feet long? A: Yes. Q: How about from the standpoint of stability of the northeast corner of the plaintiff's fence, does the wing wall make it worse or better? A: Oh, it definitely helps it....." Mc Cain was excused. Court recessed.

Therefore, in less than three (3) years from the trial court hearing from April 17 to 19, 1973 in Action #42361 to August 14, 1976, the erosion following the culvert installation had accelerated to erode the creek bed in REICHEL's channel from one foot on REICHEL's east property line at the mouth of the culvert to three feet deep 105 feet away on her west property line, the retaining wall falling inward during the storm on August 14, 1976 as stated with additional allegations of concealment amounting to fraud of City of Redding employees and One to One Hundred Ninety-Nine Does, incl.

Such erosion caused by the culvert installation was not litigated nor possibility litigated by future supposition which may never happen, in #42361.

California Action #42361 alleged negligence by City of Redding in creek clean-out and negligence in construction by adjoining property owners.

Trial Court Judge Richard Abbe submitted the Memorandum of Decision¹⁰⁴, followed by Findings of Fact and Conclusions of Law¹⁰⁵, his reversal as 104...App. T.pp 79-82; 105...App.U,pp83-86,infra

stated in the Court's Order¹⁰⁶, found for the defendants, admits his error and in an effort to correct the misinterpretation, memorandum is "proposed findings of fact and conclusions of law"; and further states:

".....satisfies the Court that its original intention to find for the plaintiff and award her damageswas not supported by the evidence and was against the law."

The question to be determined is ----- WHAT---

".....WAS AGAINST THE LAW." ?

In the last paragraph the Court states:

"The Court is satisfied by a preponderance of evidence that plaintiff's problems with the pool apron and the accelerated undercutting of her wall is the result of the activities of the defendants excavating and construction work and that the cost of repairs"

In the Findings of Fact and Conclusions of Law the Court States¹⁰⁷, the CITY OF REDDING clean-out 106...App.K,pp.27-29; 107...App. U, Pp 83-86,infra;

of the creek, combined with the excavation and construction on behalf of the defendant owners, combined to cause "scouring and erosion underneath her wall"if not abated will result in further undercutting and erosion, and loss of stability and further damage to plaintiff's property."

At no time within the memorandum of decision, the findings of fact and conclusions of law, the order, was the statement made as in REICHEL's complaint California Action #54513 (Reichel #2) which states Trespass and Encroachment, and Inverse Condemnation that since the construction of the culvert the waters were held back and boxed in onto REICHEL's creek-bed land causing the erosion as deep as 36" on the WEST SIDE of the channel; the place the retaining wall fell inward on August 14, 1976, three months after filing #54513 on May 7, 1976.

Therefore, the possibility of future erosion caused by the culvert, "as planned, constructed, and approved, and accepted by the City of Redding

.....was never mentioned in #42361, nor litigated nor possibility of the holding back of the waters within REICHEL's channel by the size and construction of the culvert was not litigated nor determined in Action #42361 (Reichel #1).

Trespass and encroachment by the defendants of the construction of the wingwall was mentioned, and could have been litigated in Action #42361, and concluded.

In Action #54513 (Reichel #2)¹⁰⁶, REICHEL quoted City Attorney Murphey as saying "we have an ordinance that provides that you cannot obstruct a natural drainage course. When you reduce the capacity of a natural drainage course, you obstruct it"¹⁰⁷.

But the capacity nor obstruction of a 'too small' culvert was never litigated nor concluded as it was not mentioned in Action #42361 (Reichel #1).

Culvert size was not mentioned nor litigated in #42361 (Reichel #1) nor in Action #54513 (Reichel #2).
106...#54513 R.T. pp34; 107...App. CC, pp 106-107 infra

Chief Justice Jones stated:

"Even where the parties are identical, truth and correctness have their very important place ...And surely the doctrine of judicial finality is not a catch penny contrivance, to dispose of cases merely for the sake of disposition---
 --- (clearing up dockets)---¹⁰⁸ .

Also this Court has stated¹⁰⁹:

"Before an action may be given the effect of res judicata and collateral estoppel, first, one must assume there was a fair hearing."

In Action #54513 (Reichel #2), the Court dismissed the action without leave to amend¹¹⁰. This Court has stated as a dismissal warrants no res judicata treatment, consequently it raises no collateral estoppel spectre either, because the dis-

missal without findings does not bind the parties
¹⁰⁸ ..U.S. Bendix Corp, U.S. Court of Claims cited by Moores Fed. Prac. Vol.1B,p.3909-3910;
¹⁰⁹..In Re Piper Aircraft Distr.Anti-Trust (CA8 1977 51 F2d 213,218; Haize vs Honover Ins. Co.(1976) 536 F2d 576, 579; Moores Fed.Prac.Vol.1B,ibid Lawlor vs Nat'l Screen Serv.Corp.(CA5,1970) 421 F2d 1313,1319; Cromwell v Co. of Sacramento,1877 94 US 351,353;¹¹⁰..App.KK,LL,MM,NN, pp 120-126,infra

To quote Justice Field in Cromwell v Co. of Sacramento *ibid*,:

"A second action between the same parties on a different claim or demand than the judgment in the prior judgment operates as an estoppel only as to those matters in issue, or points controverted upon which the finding or verdict was rendered."

Therefore, as there was a dismissal without leave to amend, without any findings or fact or conclusions of law except to quoting two California cases¹¹¹, no points were controverted, nor determination made except for the Court to state that Action #54513 was res judicata and collaterally estopped by Action #42361.

Based upon the discoveries following the flood on August 14, 1976, REICHEL motioned the Court to vacate the dismissal without leave to amend, which was denied for lack of jurisdiction, appealed¹¹², but struck by the Court of Appeals¹¹³ in REICHEL's effort for decision in law library use, *supra*.
¹¹¹...App. J,pp.26,infra; ¹¹²... FN 113,infra
¹¹³...App.KK,LL,MM,NN,pp.120-126;

REICHEL filed Action #58025 (Reichel #3) against the same defendants and additionally City employees stating Inverse Condemnation, Trespass and Encroachment, Concealment, Fraud based upon the discoveries following the flood:

1. Two approximately twelve (12) inch water-main pipes crossed inside the culvert some twenty-three (23) inches above the culvert floor, against which a simple box, branch or other small object could begin a blockage, and which in themselves blocked the water flow through the culvert¹¹⁴.

REICHEL's engineer states that water itself against the pipes could create a blockage by confinement of the water within the culvert, causing it to back up into REICHEL's channel on her property making an extremely hazardous condition in a residential area, which people in adjoining parking lot watch the raging waters and falling into turbulent waters would be sucked right into the culvert mouth; a child's attractive hazard,
114...#58025 C.T. p.8;9,10,

This Court has determined that water may block a water channel as much as any other thing¹¹⁵.

2. REICHEL's south neighbor stated the adjoining neighbors on the east in building their addition had trespassed onto his property with their parking lot some two and one-half feet.

REICHEL's engineer's survey also reveals such trespass of two and one-half feet¹¹⁶.

Therefore, all of the culvert extending eastward onto adjoining property some two and one-half feet was built upon REICHEL's property; the survey was recorded¹¹⁷.

Since the Freedom of Information Act of 1974, REICHEL again requested information from the City Department of Public Works and received copy of letter discussing type of material and construction detail after construction began¹¹⁸, and against the City Ordinance 944¹¹⁹, which required plans to submitted, written permission of City before construction in creek channel could begin.

115...*Blood v Bangor* (1877) 66 ME 154;

116...#58025 C.T. pp34, 35, 36;

117...#58025, C.T. pp 35,

118.. App. DD, pp 108-103, *infra*; 119..AppCC,p.106;

3. Defendant City of Redding submitted plans to REICHEL providing she would sign off all claims and actions they would concrete over her creek bed, but the hazardous condition and her property damage would remain.¹¹⁹ On such plans reference was made to Field Book numbers. REICHEL requested copies; the city employees could no longer refuse.

REICHEL was given Field Book copies of pages FB 27, 134; FB 151, p 62-63; F.B. 154, pp 76-77.¹¹⁹, which the City of Redding Department of Public Works knew or should have known that the culvert was being built upon REICHEL's property.

Therefore, as REICHEL had repeatedly requested to see the plans for construction within the channel and been told they couldn't be found¹²⁰, it is reasonable to assume:

a. The City of Redding did not have plans for such construction as required by city ordinance 944,

b. That is may be assumed that no plans were
 119...#58025 C.T. pp.9,10, 23-33, cert.copies
 120...#58025 C.T. pp 12,13;

submitted prior to construction by City Planning Commissioner Willard Woodward of Woodward and Nichols, nor by Ed Ochinero Shasta County Planning Commissioner as contractor for Ochinero Construction Incorporated as required of any other citizen,

Such plans would have revealed the true property lines of adjoining owners; survey by construction company was made as ribbons within photos show,

That the City of Redding employees as named may involved with other DOES to build the culvert while REICHEL was out of town, the wingwalls were built and obvious, but built without plans nor permission.

But that brings up another question of involvement of REICHEL's former attorneys who may have known of the lack of plans, written permission, trespass with construction, may be named as DOES.

California law states that the statute of limitations begin from the time of discovery¹²¹.

REICHEL contends that City of Redding employees had a fiduciary obligation to REICHEL as any other
 121...App. FF, PP 115, Cal.Civ.Code 338(4)

city resident¹²², that in effect the adjoining property owners were given a 'stolen gift'¹²³, by government employees amounting to constructive fraud¹²⁴, that although the wingwalls were obvious the concealed knowledge of a government employee/s and others, are basis for complaint #58025.

This Court has determined in other actions where repeated nuisances amount to negligent trespass and for each trespass a new action arises, independant from the one damage¹²⁴.

As none of the foregoing was at issue in either Action #42361 (Reichel #1) nor Action #54513 (Reichel #2), nor litigated neither can bar by res judicata nor collateral estoppel REICHEL's Action #58025.

This Court has repeatedly stated and which has also been followed in lower courts:

"....there must be four elements satisfied before a former action can be given collateral estop-

122...Cal.Gov.Code Sec 521.4,822.2; App.EE,p.114

123...#58025, C.T. pp 15,16, Cert Copies subm

124...# Cal.Civil Code 1573,App.GG,p.115, infra

125.. International Paper Co. v Maddox #14296 USC Appeals,5 Cir(1953) quoting Blood v Bangor 66ME154

pet effect in a later proceedquoting Restatement (2) Judgments tentative draft #1, Section 68, March 29, 1973....."¹²⁶.

Further, a Action #54513 (Reichel #2) was dismissed, no findings of fact nor conclusions of law were requested,¹²⁷, the discoveries aforementioned were not necessary to the judgment in Action #42361 (Reichel #1) nor in #54513 (Reichel #2).

Additionally, the relief sought in Action #58025 (Reichel #3) is totally different than Action #42361, (Reichel #2)¹²⁸ and as #54513 (Reichel #2) was dismissed without leave to amend,¹²⁹, Motion to Vacate was not adjudicated for lack of jurisdiction¹³⁰,

126...In Re Piper Aircraft Distribution Anti-Trust Litigation (CA8,1977) 551 F2d 213, 218, citing Haize v Honover Ins. Co. (1976) CA3, 536 F2d 576, 579;A Special Handler Bird Ins. Co. v (CA3,1976) 536 F2d 576; The American Heritage Life Ins. Co. v Heritage Life Ins. Co. 494 (CA 5 1974) 474 F2d 3, (1974); Speed Products Vo. v Tinnerman Products (CA 2d 1955) 222 F2d 61, 67; Carol Fashions vs Cranston Print Works, Co, 454 F2d 1177(1972) 127..App. KK,LL,MM,NN, PP 120-126; 128..Sue & Sam Manufacturing Company v BLS Construction, etc, 538 F2d 1048 (1976); International Paper Co. v Maddox #14296 USC Appeals(1953); 129..FN 127,supra 130..FN 127,supra 131..FN 127,supra

the Court of Appeals made no determinations in Action #54513¹³¹, and as defendant City of Redding and possibly others knew or should have known the culvert was being constructed on property other than the defendants property, had a fiduciary obligation to REICHEL to reveal their knowledge but did not do so¹³², and, as REICHEL's constitutional rights were and are being abridged¹³³, therefore, for all the foregoing reasons, res judicata and/or collateral estoppel may not apply

WHEREFORE, MINTA H. REICHEL prays for determination in law for the use of the law library,

2. a determination in law as to the validity of the lower courts determination of res judicata and/or collateral estoppel which bars California Action #58025,

3. that Action Civil S79-73-TJM may go to trial

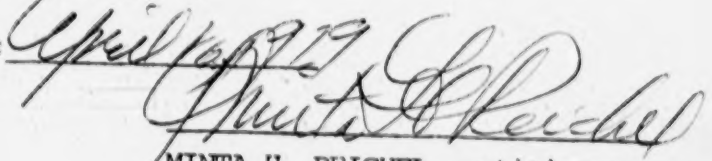
131...FN 127, supra,

132...COOPER vs JUVNE, 56 CA3d 860; MANN V STATE of CALIF. L39 CalRptr 82 (1977)

133...Question #1, pp 1-52, supra

4. the writs as petitioned be issued,
5. the motions made be granted,
6. that REICHEL be granted the loss of income, the costs of suit and other relief this court deems right and just,

DATED: April 19, 1979


MINTA H. REICHEL, petitioner
Appearing in Propria Personna

VERIFICATION

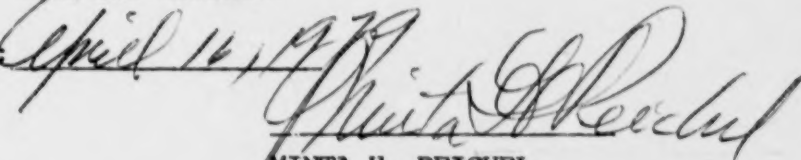
State of California County of Shasta:

I, the undersigned, am the petitioner in this
Action;

I have written the above petitions for Writ
or Mandamus and/or in the alternative Prohibition,
and writ for certiorari for review of Action #58025,
for the Motions as herein presented and know their
contents. The foregoing documents are true of my
knowledge, except as to those matters that are
stated in it on my information and belief, and as
to those matters I believe them to be true.

I declare under penalty of perjury that the
above is true and correct.

DATED: April 14, 1979


MINTA H. REICHEL,
Appearing in Propria Personna

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APPENDIX A

CLERK'S OFFICE, SUPREME COURT
4250 State Building
San Francisco, California 94102

FILED

I have this day filed Order January 24, 1979

HEARING DENIED

In re: 3 CIV. NO. 17535

REICHEL

vs

CITY OF REDDING, et al

Respectfully,

G. E. BISHEL
Clerk

---000---

APPENDIX B

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

COPY

IN THE COURT OF APPEAL OF THE STATE OF
CALIFORNIA IN AND FOR THE THIRD APPELLATE
DISTRICT

MINTA H. REICHEL,	) 3 CIVIL 17535
Plaintiff and	) (Super.Ct.No.
Appellant,	) 58025)
)
v.)
)
CITY OF REDDING, et al.,)
Defendants and)
Respondents.)

FILED

Nov 27 1978

COURT OF APPEAL --THIRD DISTRICT
WILFRIED J. KRAMER, Clerk
by _____, Deputy

Plaintiff appeals from a judgment of dismissal after the trial court sustained defendants' demurrers to her complaint without leave to amend. The ruling was based on res judicata, collateral estoppel, and another action pending between the same parties.

Plaintiff filed a complaint in 1970

based principally on the theory that defendants were negligent in the clearing of Calaboose Creek and the installation and construction of her property; she sought damages to her swimming pool, its coping and apron, and the retaining wall and fence. (Reichel v City of Redding (5/23/75) 3 Civ. 14495 (Reichel I). The trial court granted judgment in favor of defendants, and we affirmed. (Ibid.)

In 1976 plaintiff again filed a complaint for damages against the same defendants; she alleged five causes of action. The first was for inverse condemnation against the City of Redding, and the second through fifth were for trespass and encroachment against the remaining named defendants (Ochineror and Woodward group) and various unnamed Doe defendants. The causes of action were based on the same factual situation as had been the subject of her 1970 complaint, namely, the clear-

ing of Calaboose Creek and the construction of a culvert and parking lot adjacent to plaintiff's property. We affirmed the judgment of dismissal entered after the trial court sustained demurrers to the complaint by the Ochinero and Woodward group on the basis of res judicata and collateral estoppel. (Reichel v Ochinero Construction Company, Inc. (12/12/77) 3 Civ 16263 (Reichel II)).

In the instant case, plaintiff filed a complaint on July 5, 1977, which again named the same defendants and additionally named three employees of the City of Redding (Jack Lang, Engward Nielsen, Robert Galusha). She now alleges six causes of action. The first is for inverse condemnation by the City of Redding and also for the negligence and other conduct of its employees (respondeat superior). The second cause of action is for fraudulent conduct by the aforementioned city employees as well as

Willard Woodward and Edward Ochinero. The third and fourth causes of action are for trespass and encroachment by the Ochinero and Woodward group; the fifth and sixth causes of action are for exemplary damages based on the willful, wanton and malicious acts alleged in the preceding causes of action. All six causes of action are again based on the same factual situation as the prior lawsuits, namely, the clearing of Calaboose Creek and the construction of a culvert and parking lot adjacent to plaintiff's property.

The defendants filed demurrers to the complaint. On November 3, 1977, they were sustained without leave to amend, and the judgment of dismissal from which plaintiff appeals was entered on November 16, 1977.

We reject the contention that the trial court erred in sustaining defendants' demurrers. The doctrines of res judicata

and collateral estoppel are applicable to the case at bench, therefore we need not consider plaintiff's remaining contentions.*

As stated in our opinion in Reichel II:

"A cause of action is based upon the injury to the plaintiff, and not the particular legal theory by which plaintiff characterizes defendant's wrongful act. Hence a judgment for the defendant is a bar to a subsequent action by the plaintiff based on the same injury to the same right, even though a different legal ground for relief is presented."

We are here presented with the same situation as in Reichel II. Plaintiff is again attempting to state a cause of action against defendants by alleging different

legal theories;

* Plaintiff's contention that restricted use of the law library constitutes a denial of due process and equal protection of the laws is not properly before us. (Code Civ. Proc., Sec. 904.1).

she not only alleges different theories but brings in additional parties. Since the complaint is again based upon erosion to her property, we again find that she had but one claim for relief. (See Reichel II.) There having been a prior adjudication on the matter, plaintiff is barred from proceeding upon different legal grounds for such relief. (Slater v. Blackwood (1975) 15 Cal.3d 791, 795; Kingsbury v Tevco, Inc. (1978) 79 Cal.App.3d 314, 317). The fact that she added three city employees to her list of named defendants in the present suit does nothing to alter the situation. There was substantial identity of parties between the former actions and the present one. (4 Witkin, Cal. Procedure (2d ed. 1971) Judgment, Sec. 222, p. 3357; see Hilts v. County of Solano (1968) 265 Cal.App.2d 161, 176.)

Plaintiff contends that the foregoing

analysis is applicable since there was a continuing trespass and she may bring a new action for each trespass. What plaintiff refuses to comprehend is that the trial court hereto determined that there is no actionable wrong upon which to predicate liability for the harm to plaintiffs's property, and we affirmed that judgment in Reichel I. Plaintiff has failed to allege a new factual basis for her complaint -- she merely asserts that a storm in August 1976 caused further erosion to her property. A "continuing trespass" is based upon a wrongful act which continues to cause injury. (2 Witkin, Cal. Procedure (2d ed. 1970) Actions Sec. 321, pp 1165-1166.) The trial court's determination which we affirmed in Reichel I, that defendants' conduct did not constitute a wrongful act in the first instance, precludes a subsequent claim for further

injuries due to that conduct.

Plaintiff has shown no justification for this appeal, let alone any reasonable argument to support it. The appeal is frivolous within the meaning of California's Rules of Court, rule 26(a). A sanction of \$500 is imposed against plaintiff, payable pro-rata to defendants City of Redding, Ochinerro Construction Company, Inc., a corporation, and Woodward and Nichols, a copartnership.

The judgment is affirmed.

PARAS Acting P.J.

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APPENDIX C

SUPERIOR COURT OF THE STATE
OF CALIFORNIA FOR THE COUNTY OF

SHASTA

Filed November 16, 1977, Richard C.
Brennan, Clerk, N. Richardson, Deputy
Clerk

MINTA H. REICHEL,)	
Plaintiff,	)	No. 58025
)	
v.	)	JUDGMENT OF DIS-
	)	MISSAL FOLLOWING
CITY OF REDDING, etc.,	)	SUSTAINING OF DE-
et al.,	)	MURRER WITHOUT
Defendants.	)	LEAVE TO AMEND

IN THIS ACTION, defendants OCHINERO
CONSTRUCTION COMPANY, INC., a corporation
EDWARD H. OCHINERO and BEATRICE OCHINERO,
by their attorneys, LAUGHLIN, CRAIG &
CHRISTENSEN, having appeared and demurred
to plaintiff's complaint herein; and de-
fendants WOODWARD and NICHOLS, a co-part-
nership, WILLARD M. WOODWARD and JANE E.
WOODWARD, his wife, and EUGENE LAVORY
NICHOLS and TAMMY JOY NICHOLS, his wife,
by their attorneys, RICH, FUIDGE, MARSH
& MORRIS, INC. having appeared and de-

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murred to plaintiff's complaint herein;
and defendants CITY OF REDDING, CARL AR-
NESS, JACK LANG, ENGBARD NEILSEN and
ROBERT GALUSHA having appeared and de-
murred to plaintiff's complaint herein;
and the issue of law thereby presented
having been duly submitted to the Court;
and the Court on November 3, 1977, having
sustained said demurrers without leave to
amend.

NOW, THEREFORE, IT IS HEREBY AD-
JUDGED AND DECREED that plaintiff take
nothing by her complaint as to OCHINERO
CONSTRUCTION COMPANY, INC., a corporation,
EDWARD H. OCHINERO, BEATRICE OCHINERO,
WOODWARD and NICHOLS, a co-partnership,
WILLARD M. WOODWARD, JANE E. WOODWARD,
EUGENE LAVOY NICHOLS, TAMMY JOY NICHOLS,
CITY OF REDDING, CARL OARNES, JACK LANG,
ENGBARD NEILSEN and ROBERT GOLUSHA, and
that said complaint be, and it hereby is,

dismissed as to said defendants. Defendants OCHINERO CONSTRUCTION COMPANY, INC., a corporation, EDWARD H. OCHINERO and BEATRICE OCHINERO shall recover their costs herein taxed at \$_____. Defendants WOODWARD and NICHOLS, a co-partnership, WILLARD M. WOODWARD, JANE E. WOODWARD, EUGENE LAVOY NICHOLS and TAMMY JOY NICHOLS shall recover their costs herein taxed at \$_____ and defendants CITY OF REDDING, CARL ARNESS, JACK LANG, ENWARD NEILSEN and ROBERT GOLUSHA shall recover their costs herein taxed at \$_____.

DATED: November 16, 1977.

R. W. ABBE

R. W. ABBE

Judge of the Superior Court

APPENDIX C-1

SUPERIOR COURT OF THE STATE OF
CALIFORNIA FOR THE COUNTY OF SHASTA

Minute Book 118
Date November 3, 1977

Hon. R.W. Abbe

#58025
MINTA H. REICHEL,
Plaintiff,

vs

CITY OF REDDING, et al,
Defendants.

NATURE OF PROCEEDINGS -

The demurrers of defendants are sustained without leave to amend on the following grounds:

1. The Complaint herein does not state facts sufficient to constitute a cause of action in that it is barred under the doctrine of res judicata and/or collateral estoppel by the final determination of the prior litigation in the action entitled Minta H. Reichel vs. City of Redding, et al, Shasta County Action No. 42361.

2. The Complaint herein does not state facts sufficient to constitute a cause of action in that it is barred under the doctrine of res judicata and/or collateral estoppel by the prior litigation in the action entitled Minta H. Reichel vs. City of Redding, et al, Shasta County Action No. 54513.

3. There is another action pending between the same parties on the same cause of action, to-wit, Shasta County Action No. 54513, which action is presently pending before the Court of Appeals for the Third Appellate District pursuant to plaintiff's appeal from the judgment of dismissal following the sustaining of a demurrer without leave to amend by the Shasta County Superior Court.

CERTIFICATE OF MAILING, November 3, 1977
Richard C. Brennan, Clerk, J. Wion,
Deputy

cc: Minta H. Reichel, PO Box 2304, Redding
CA 96001
Rich, Fuidge, Marsh & Morris, Attor-
neys at Law, PO Drawer A, Marysville
CA 95901
Tocher & Gazzigli, Attorneys At Law,
PO Box 2256, Redding, CA 96001
Laughlin, Craig & Christensen, Attor-
neys At Law, 45 Main St., Chico,
CA 95926

/s/ R. W. Abbe
R. W. Abbe, Judge

APPENDIX- D

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

COPY

IN THE COURT OF APPEAL OF THE STATE OF
CALIFORNIA IN AND FOR THE THIRD APPELATE

DISTRICT
(Shasta)

Filed December 12, 1977, Court of Appeal
Third District, Wilfried J. Kramer, Clerk

MINTA H. REICHEL,	)	3 Civ. 16263
Plaintiff and)	
Appellant,	)	Super. Ct. No.
	)	54513
v.)	
)	
OCHINERO CONSTRUCTION)		
COMPANY, INC., a cor-)		
poration, et al.)	
)	
Defendants and)	
Respondents.)	

THE COURT:

Plaintiff appeals from judgment of
dismissal after the court sustained de-
murrers without leave to amend.

FACTS

Based principally on the theory of
negligence in the clearing of Calaboose

Creek and the construction of a culvert and parking lot adjacent to her property, plaintiff in 1970 sued the within defendants and others¹ to recover for the damage allegedly resulting to her swimming pool, its coping and apron, and the retaining wall and fence. After a court trial, the trial court found for the defendants. We affirmed the judgment in an opinion filed May 23, 1975 (3 Civil 14495, unpub. opn.).

In 1976 plaintiff filed the instant complaint for damages against the same defendants. This complaint contains five causes of action. The first is for inverse condemnation against the City of Redding. The second through fifth causes

¹ The named defendants were: City of Redding; Woodward and Nichols, a co-partnership; Willard M. Woodward; Jane E. Woodward; Eugene Nichols; Tammy Nichols; Ochiner Construction Company, Inc.; Edward Ochiner; and Beatrice Ochiner.

of action are for trespass and encroachment against the remaining named defendants (the "Ochiner and Woodward group") and various unnamed Doe defendants. All five causes of action are based on the same factual situation as had been the subject of plaintiff's 1970 lawsuit, namely, the clearing of Calaboose Creek and the construction of a culvert and parking lot adjacent to plaintiff's property.

The Ochiner and Woodward group filed demurrers to plaintiff's complaint; on June 24, 1976, the court sustained the demurrers on the basis of res judicata and collateral estoppel without leave to amend. On June 30, 1976, judgment of dismissal was entered in favor of the Ochiner and Woodward group from which plaintiff appeals.

A cause of action is based upon the

injury to the plaintiff, and not the particular legal theory by which plaintiff characterizes defendant's wrongful act. Hence a judgment for the defendant is a bar to a subsequent action by the plaintiff based on the same injury to the same right, even though a different legal ground for relief is presented. (Slater v. Blackwood (1975) 15 Cal.3d 791, 795; Panos v. Great Western Packing Co. (1943) 21 Cal.2d 636, 638; see generally 3 Witkin, Cal. Procedure (2d ed. 1971) Pleading, § 24, p. 1709.)

Here plaintiff attempted in 1976 to state a cause of action against the Ochintero and Woodward group by offering different legal theories than she had advanced in her 1970 complaint. Nonetheless, plaintiff had but one claimed injury giving rise to but one cause of action, namely, the alleged erosion of

her property. The court's action in sustaining the demurrers of the Ochintero and Woodward group without leave to amend was proper. (Slater v. Blackwood, supra, 15 Cal.3d at p. 795.)

Plaintiff's contention that Judge Abbe should have disqualified himself from acting as judge in the instant case will not be reviewed on appeal. There is no indication that plaintiff made a motion in the lower court to disqualify Judge Abbe; therefore, she has waived her right to raise the issue on appeal. (See People v. Escobedo (1973) 35 Cal.App.3d 32, 36; Whistler v. Ondulando Highlands Corp. (1970) 13 Cal.App.3d 108, 117-118.)

Plaintiff's contention regarding her limited use of the law library is not supported by citation to case authority; therefore, it may be deemed to be without foundation and requires no discussion.

(Solomont v. Polk Development Co. (1966)
245 Cal.App.2d 488, 496.)

The judgment of dismissal is affirmed.

FOR THE COURT:

PUGLIA, P.J.

FRIEDMAN, J.

REYNOSO, J.

APPENDIX - E

IN THE

COURT OF APPEAL OF THE STATE OF CALIFORNIA

IN AND FOR THE

THIRD APPELLATE DISTRICT

FILED DECEMBER 28, 1977.

MINTA H. REICHEL
v.

3 Civil 16263
Shasta 54513

OCHINERO CONSTRUCTION CO.

By the Court:

Appellant's petition for rehearing is denied.

Dated: December 28, 1977

FRIEDMAN, Acting P.J.

cc:Minta H. Reichel
P.O. Box 2304
Redding, CA 96001

cc:Nels A. Christensen
Laughlin, Craig & Christensen
Attorneys at Law
P.O. Box 676
Chico, CA 95926

cc:Roland Iverson, Jr.
Rich, Fuidge, Marsh & Morris
Attorneys at Law
P.O. Drawer A
Marysville, CA

APPENDIX -F

Minta H. Reichel
P.O. Box 2304
Redding, CA 96001

January 23, 1978

Office of the Clerk
Supreme Court of the
State of California
Library and Courts Bldg.
Sacramento, CA 95814

Dear Sir:

As I am allowed the use of the Shasta County Law
Library only two hours per day five days a week I
have been too sick with a cold virus to travel to
the law library at the University of California at
Davis in order to complete my research for the
Petition for Hearing before the Supreme Court, I
respectfully request an extension of Seven (7) days
to complete my petition.

Respectfully submitted,

/s/

Minta H. Reichel
Appearing in pro per

cc: Laughlin Craig & Christensen
P.O. Box 676, Chico, CA 95926
cc: Rich Fuidge Marsh & Morris
P.O. Drawer A, Marysville, CA 95901

APPENDIX-G

Office of the Clerk
SUPREME COURT OF CALIFORNIA
San Francisco, California
G. E. Bishel, Clerk

January 25, 1978

Minta H. Reichel
P. O. Box 2304, Redding, Calif. 96001

Re: 3 Civ. 16263 - Reichel v. Ochintero
Construction Company

Dear Minta Reichel:

The court does not extend the time to
file a petition for hearing. The last
day to timely file a petition for hearing
was January 23, 1978.

Very truly yours,
G. E. BISHEL
Clerk of the Supreme Court

By: J. L. Kavanagh
Chief Deputy

JLK:ct

cc Messrs. Laughlin, Craig & Christensen
Messrs. Rich, Fuidge, Marsh & Morris

APPENDIX- H

Office of the Clerk
SUPREME COURT OF CALIFORNIA
San Francisco, California
G. E. Bishel, Clerk

February 3, 1978

Ms. Minta H. Reichel
P. O. Box 2304, Redding, Calif. 96001

Re: 3 Civ. 16263-Reichel v. Ochinero
Construction Company

Dear Ms. Reichel:

Your letter requesting relief from default and the petition for hearing were presented to the court for its consideration.

The court directed that your petition for hearing be returned for the reason that it would not grant the permission necessary to allow the untimely filing.

Enclosed find a copy of the court's policy statement in this regard, together with your check for \$25.00.

Very truly yours,
G. E. BISHEL
Clerk of the Supreme Court

By: J. L. Kavanagh
Chief Deputy

JLK:ct

Enclosures

cc: Roland Iverson, Esq.
Nels Christensen, Esq.

APPENDIX -I

In The
Court of Appeal of the State of California

In And For The
THIRD APPELLATE DISTRICT

(Filed Sep 23 1977)

MINTA H. REICHEL 3 Civil 16668

v. Shasta 54513

CITY OF REDDING

By the Court:

Appellant's application for review of appellate court's motion to strike petition for writ of mandate from her opening brief on appeal is treated as a petition for rehearing and denied. The appeal from denial of motion to vacate and dismiss judgment filed February 15, 1977 and the appeal by petition for writ of mandate filed February 15, 1977 in Shasta County No. 54513 are dismissed as non-appealable.

Dated: September 23, 1977 PUGLIA, P.J.
cc: Minta H. Reichel, Earl D. Murphy,
Rich, Fuidge, Marsh & Morris,
Laughlin, Craig & Christensen

APPENDIX-J

 IN THE
 COURT OF APPEAL OF THE STATE OF CALIFORNIA

IN AND FOR THE

THIRD APPELLATE DISTRICT
 (filed Aug 31, 1977)

MINTA H. REICHEL, 3 Civil 16668

v Shasta 54513

CITY OF REDDING

By the Court:

The petition for writ of mandate attached to appellant's opening brief is stricken from the file on the court's own motion because such petition may not be included with appellant's opening brief. In addition, the petition is not verified and fee for a petition for writ of mandate.

Dated August 31, 1977

/s/ PUGLIA
 PUGLIA, P.J.

CC:

Minta H. Reichel, P.O. Box 2304, Redding, CA
 Earl D. Murphy, 760 Parkview Ave. Redding, CA
 Laughlin, Craig & Christensen, Chico, CA
 Rich, Fudge, Marsh, Morris, Marysville, CA

APPENDIX-K

 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF SHASTA

Minute Book 101 DEPT. II
 Page 14 Hon. R. W. ABBE
 Date June 25, 1973

#42361

MINTA H. REICHEL,

Plaintiff,

vs.

CITY OF REDDING, et al,

Defendants.

(Filed JUN26 1973)

NATURE OF PROCEEDINGS - ORDER

The Court inadvertently neglected to indicate that the document signed by the Court and filed herein on May 25, 1973 was merely proposed Findings of Fact and Conclusions of Law and it was not the intention of the Court to sign the final findings and conclusions without giving the parties an opportunity to object and to be heard on their objections regarding the findings and conclusions. The memorandum

of decision made on May 14, 1973 was merely a notice of intended decision and was not a judgment in favor of plaintiff.

A re-examination of the facts established by the evidence and the law satisfies the Court that its original intention to find in favor of plaintiff and award her damages in the sum of \$985.00 was not supported by the evidence and was against the law. It is unfortunate, of course, that an error was made, but it is obviously incumbent upon me to admit the error, to change the decision, and to enter herein the only decision that can be justified pursuant to law and the overwhelming preponderance of the evidence.

Judgment shall be entered herein in favor of all defendants against the plaintiff and all other orders and memorandum of the Court contrary to this position are hereby declared inoperative. Each party shall bear his own costs of suit.

cc: Minta H. Reichel
Charles C. Dawson, Jr.
Laughlin, Craig & Christensen
Clyde Small

/s/
R. W. ABBE, Judge

APPENDIX-L
-----NOT TO BE PUBLISHED IN OFFICIAL REPORTS

COPY

IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA
IN AND FOR THE THIRD APPELLATE DISTRICT
(Shasta)
(FILED MAY 23 1975)

3 Civil 14495
(Sup.Ct.No. 42361)

MINTA H. REICHEL,
Plaintiff, Appellant and
Cross-Respondent,

v

CITY OF REDDING, a municipal corporation,
et al.,
Defendants and Respondents.)

CITY OF REDDING, a municipal corporation,
Defendent, Respondent and
Cross-Appellant,

v

MINTA H. REICHEL,
Plaintiff, Appellant and
Cross-Respondent.

BY THE COURT:

Based principally on the theory that
defendants were negligent in the clearing
of Calaboose Creek and the installation

and construction of a culvert and parking
lot adjacent to her property, plaintiff
sought to recover for the damage allegedly
resulting from said negligence to her
swimming pool, its coping and apron, and
the retaining wall and fence. The trial
court found for defendants. Plaintiff
appeals. The City of Redding has filed
a cross-appeal from the judgment limited
to the denial of costs.

The major thrust of plaintiff's appeal
is that there is sufficient evidence that
the defendants caused the damage to her
property. It is evident from the argument
advanced by plaintiff that she has over-
looked the elementary principle of law
that in reviewing the evidence on an appeal
all conflicts must be resolved in favor
of the respondent and all legitimate and
reasonable inferences indulged to uphold
the judgment. (Crawford v. Southern
Pacific Co. (1935) 3 Cal.2d 427, 429.)

When a judgment is "attacked" as being unsupported by the evidence, as in the instant case, the power of this court begins and ends with a determination as to whether there is any substantial evidence, contradicted or uncontradicted, which will support the conclusion reached by the trier of facts. (Ibid.) Moreover, when two or more inferences can reasonably be deduced from the facts, this court is without power to substitute its deductions for those of the trial court. (Ibid.)

Additionally, in resolving the issue of the sufficiency of the evidence, we are bound by the established rule of appellate review that we must view the facts most favorable to the prevailing party and in support of the judgment. (Nestle v. City of Santa Monica (1972) 6 Cal.3d 920, 925.) That is, we look only at the evidence supporting the successful party and disregard evidence to the

contrary. (Ibid.) We incorporate by reference herein the facts as set forth in respondents' brief at pages 7 through 13 which substantially support the judgment.

Contrary to the argument advanced by plaintiff, since the trial court implicitly found that defendants were not negligent and that the clearing of the creek and the installation and construction of the culvert and parking lot were not the proximate cause of the damage to plaintiff's property and the appurtenances thereto, defendants would not be liable under either the theory of inverse condemnation or under Civil Code section 832.¹ (See Holtz v. Superior Court (1970) 3 Cal.3d 296, 300 et seq.; Blau v. City of Los Angeles (1973) 32 Cal.App.3d 77, 94-85; Marin Mun. Water Dist. v. Northwestern Pac. R.R. Co. (1967) 253 Cal.App.2d 83, 91-92; Wharam v. Investment Underwriters (1943) 58 Cal.App. 2d 346, 349.)

There is no merit to plaintiff's contention to the effect that the trial court abused its discretion in granting the request of plaintiff's attorney to withdraw as counsel of record prior to entry of judgment. The court may at any time before judgment or final determination grant an application by an attorney to withdraw from a case as attorney of record. (Code Civ. Proc., § 284.) The record reflects that the court not only found that the relationship between plaintiff and her attorney had deteriorated to the point that neither wished to be associated with the other in any way, but also that plaintiff had concurred in the court's granting her attorney's request for withdrawal.

We do find that the trial court erred in not awarding costs to the cross-appellant, the City of Redding. Pursuant to Code of Civil Procedure sections 998 and

1032 the defendant City of Redding was entitled to costs as a matter of course from the time defendant (along with the other defendants) filed its offer to compromise on October 27, 1972. Whether or not the City of Redding is to receive costs from the date of the filing of the complaint and for the costs of the services of expert witnesses is within the discretion of the court. (Code of Civ. Proc., § 998.)

We remand the cause in order that the trial court may exercise its discretion on this latter matter and to determine the amount due the City of Redding by way of costs from the date of the offer to compromise. The judgment is affirmed in all other respects.

For the Court:

PUGLIA, , P.J.

REGAN , J.

EVANS, , J.

APPENDIX- M

In The
Court of Appeal of the State of California

In And For The
THIRD APPELLATE DISTRICT

(Filed Sep 23 1977)

MINTA H. REICHEL 3 Civil 16644

v. Shasta 54512

ALVIN M. CIBULA

By the Court:

Appellant's application for court order for correction of alleged clerk's error is denied. The appeal filed February 15, 1977 and the appeal filed March 21, 1977 from judgment and order granting request to expunge Lis Pendens in Shasta County No. 54512 are dismissed as non-appealable. (C.C.P. section 409.4.) Considering the matter as a petition for writ of mandate, the petition is denied.

Date: September 23, 1977

PUGLIA, P.J.

cc: Minta H. Reichel
Presleigh, Arel & Dunlap

APPENDIX N

MINTA H. REICHEL
PO Box 2304
Redding, CA 96001

Shasta County Board of Supervisors
Shasta County Courthouse
Court Street
Redding, CA 96001

This letter of complaint and claim for damages is submitted by me, Minta H. Reichel, to the Shasta County Supervisors, the Shasta County Board of Directors as Trustees of the law library, and to the Shasta County Superior Court Judges, Honorable Judge Richard Eaton (retired), Honorable Judge Richard Abbe, Honorable Judge Clyde Small, and Honorable Judge Phelps, and I do hereby allege:

On or about October 31, 1974, the Trustees of the Shasta County law library with Honorable Judge Clyde Small, Chairman of the Board of Supervisors of 1974, attorneys Lawrence Carr, Al Cunningham,

attending, determined to close the law library to the public, giving lawyers full and unrestricted access, by authorizing to be placed on the door of the law library, the following sign:

"Law Library open to the Public 3PM to 5PM

1. Only lawyers may check out books.
2. Check out period is one week.
3. When library is closed, lawyers may obtain key from Judges secretary's office, relock door when leaving, return key to secretary, who will then check out books withdrawn by lawyers."

To do legal research and to prepare the complaints for damages, I traveled to other law librarys as far away as in Davis San Francisco, and others, and on May 7, 1976 filed Shasta County Actions #54512 and #54513 in the Shasta County Superior Court.

#54512 still pending.

Realizing I had made errors, that I would need to use the law library before and during court, I wrote a letter on May 13, 1976 requesting the Superior Court Judges to allow me more than two (2) hours per day of law library use, and personally delivered it to the County Clerk's office.

Honorable Judge Richard Eaton was there, and I gave him the original who returned it to me stating,

"if they let you in they would have to let every one in---go find a lawyer."

I delivered a copy to Judge Richard Abbe's secretary, but Judge Clyde Small's office was locked and therefore no copy was left.

Later in court, Judge Richard Abbe stated he had presented the letter to the Trustees of the Law Library and my request had been voted down 3 to 1. However, no

record of this meeting is in the minutes of the Law Library on file within the county clerk's office.

My letter thanking him dated June 11, 1976 and the letter of May 13, 1976 are attached hereto and made a part hereof as Exhibits "A" and "B".

During the cases filed by me in the Shasta County Superior Court including Action #58025 for damages from the severe rain and flooding of my property on August 14, 1976, I was allowed to use the law library only two hours per day, five days per week. Even though as a litigant in court, I needed to review the law before entering court, I was denied its use by the use by the Judge's secretaries who refused to give me the key, and who stated that their instructions were to let only lawyers in before 3PM. Therefore, all research by me to present my cases in court

was in out of town law libraries, which greatly increased my court costs, took time from earning my living within my profession as a real estate broker.

I further allege that such severe restrictions, limitations oppressive and discriminatory acts by the officials named and others, are directly and strickly related to my errors in court procedures, pleadings, complaints, and in court; that such oppressive and discriminatory acts substantially impaired my constitutional rights and my civil rights in my efforts to protect my property and my property interests.

On different occasions I spoke about the denial of the use of the law library to both Henry Keefer and Bessie Saunders, but there was no change. Their opinions are reflected in their letter to another citizen who wrote to the Board of Super-

visors, Victor Lochman, who (1975) also requested use of the law library and may be found in the minutes of the law library within the county clerk's office.

In accordance with the California Business and Professional Code Sections 6301 clearly sets out the establishment of the law library being directly under the supervision of the Superior Court Judges, of whom one, or an appointee from the local lawyers, to be on the Board of Directors of the Law Library, as is the Chairman of the Board of Supervisors, or an appointee from the local lawyers, and three local lawyers; means that five members of the local lawyers of the Bar Association may have the power to determine which of their neighbors will be given access to the law library, if they are allowed to close it within their discretion, or give permission for use to any one

they desire, or for that matter, restrict a non-lawyer litigant appearing in propria persona to the extent that I was restricted recently. Such control as has been exercised within my cases in my opinion is unconstitutional.

Further, in accordance with California law (section 6321) a law library fee was collected for each filing, in addition to the filing fee, of each complaint filed in the county superior court. By so doing, a litigant, either through their lawyer, or as a litigant appearing in propria persona, in effect 'buys' a property interest right in the use of the law library and such property right interest was taken from me, without a meaningful hearing as to my rights for use. Such fees are increased (Sections 6322.1) as in Shasta County to \$4.00 beginning in 1972, as restated in 1978. (Appendex P, infra).

The opinion of Honorable Judge Clyde Small following my comment in court regarding the use of the law library may be evaluated by the reporters transcripts of Albert Peterson who 'inadvertantely left out' those requested by me in action #54512, and, are made a part hereof and attached hereto as Exhibit "C".

The intent of the California legislature appears to be stated (Section 6360):

"A law library established under the provisions of this Chapter shall be FREE to the judiciary, to State and County officials, to members of the State Bar, and TO ALL RESIDENTS OF THE COUNTY, for the examination of books and other publications at the library or its branches."

In an effort to get public support in the use of the law library I paid for an ad in the local Record Searchlight, and thereafter, attached a copy with a letter to the Shasta County Grand Jury c/o Presiding Judge Clyde Small which I personally delivered to the County Clerk's Office.

No reply was ever received. Copy of the letter with the attached ad is attached and part hereof and marked as EXHIBIT "D".

In late January 1978, the sign was removed from the law library door, a telephone installed, and Judge Phelps secretary's desk was placed therein and the law library was supposedly open from 1PM to 5PM. However, if the secretary has work, she leaves locking the door behind her. Anyone inside may if they so desire "scan" any papers left on her desk. Anyone outside in the hall, would assume the library was closed to the public, when the door is locked, instead of waiting for the secretary to return. On June 21, 1978, I waited a full half hour, while she took her 'break' and then some business for the Judge before returning. Finally I went to Honorable Judge Abbe's office, and asked if the law library was open that day, and

for the first time, since entering court in May 1976, he offered to unlock the door. I refused saying:

"Judge Abbe, this is the first time you have offered to unlock the law library door for me, even when I requested access, and needed it so badly while in court. No, I will wait, as the others must do."

But 'others' do not have to wait, for as I waited a young man approached the locked door, left immediately toward the office of Honorable Judge Abbe's office, returned with a key, unlocked the door, returned the key to (apparently) Judge Abbe, entered the library door, locking it behind him. I asked Judge Abbe if the young man was a lawyer--

"Well, yes---well, no, not really---he is a law student, he has not passed the bar yet."

In the law library, I asked the young man his name, if he had been given the key before, and his answer was:

"Yes, two or three times when I have needed it, I am working for a local law firm."

Now, it is strange that as a non-lawyer litigant in court I have been denied the law library use when it is locked for over two years, yet another, non-lawyer person, for a person is not a lawyer UNTIL that person has passed the bar examination and the mortality rate from the last examination in February 1978 was quite high I understand, so, who is to know that this person who had full access to the library would ever pass the bar examination, or for that matter, change his mind and decide not to continue? In either case, that person is not a lawyer.

Why is a person who is working for a law firm, has not paid a litigants library fee, given access to the locked law library another, non-lawyer litigant who has paid a law library fee and needs access

Why is a person who is working for a law firm, has not paid a litigant's library fee, given access to the locked law library when another, non-lawyer litigant who has paid a law library fee and needs access to the law books denied for over two years, struggling in the court to protect constitutional rights, civil rights, property rights and property interest rights?

Therefore, allegations of denial of my civil rights under 42 USC 1983 and discrimination of government officials, appointed government officials, the Superior Court Judges as named, the Shasta County Board of Supervisor, all individually and together, under the federal laws of discrimination as stated under the Civil Rights Act of 1871 and Civil Rights Act of 1964, 42 USC 1985(2):

"Section 1985. Conspiracy to interfere with civil rights --(2).....or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws.."

Both Shasta Action #54512 pending, before the Shasta County Superior Court and Action #58025 as 3 CIVIL 17535 in the Court of Appeals of the Third Appellate District, and therefore, the decision of the use of the law library is important.

Additionally, I herewith submit a claim to the Shasta County Board of Supervisors for the amount of Shasta Action #54513, such amount being the sum of Three Hundred Fifty Thousand Dollars (\$350,000.) and to be amended to include the additional sum of Actions #54512 and #58025 as appealed, pending decisions therein and additionally, my loss of income while being denied the full use of the law library, costs while traveling to other law libraries and my living expenses while there, and any other costs that may be incurred while this matter may be before the court.

Respectfully submitted,

Dated: /s/ July 26, 1978

/s/ _____
Minta H. REICHEL
Appearing in propria per

APPENDIX-N13a

Minta H. Reichel
P.O. Box 2304
1945 Shasta Street
Redding, Calif., 96001

May 13, 1976

To the Honorable Judges of the Superior
Court
Richard C. Brennan, Shasta County Clerk
Shasta County Court House
Court Street
Redding, California 96001

Honorable Judge Eaton:

Honorable Judge Abbe:

Honorable Judge Small:

In the past years the law library was open to the public from 8 AM to 5 PM and the public was allowed to enter and research a subject or code. However, this is no longer the case and the two hours only from 3 PM to 5PM is hardly adequate to research a code and be sure of the form to use and causes problems in filing incorrectly as I did with the standard Writ of Attachment and codes therein, as well as the form of the Request for a Hearing in my attempt to cross-file. Further, the book needed was not available to me on the shelf until May 11th. I understand the

(Exhibit A-)

problems of thievery and damage to the books, however, there should be a way to allow those of us who need these books to use them.

I therefore respectfully request permission to have access to the library at other hours of the day, while I attempt to present my case to the court.

*Probate #12612

Sincerely,

/s/

Minta H. Reichel, Plaintiff
Civil Cases #54512 and #54513
Appearing in Propria Persona

cc: Honorable Judge Eaton
Honorable Judge Abbe
Honorable Judge Small

APPENDIX-N14a

June 11, 1976
 Minta H. Reichel
 P. O. Box 2304
 Redding, Ca. 96001
 Telephone (916) 241-6772

Honorable Judge Abbe:
 Judge of the Superior Court
 Richard C. Brennan, Shasta Co. Clerk
 Shasta Co. Court House
 Court Street, Redding, Calif. 96001

Honorable Judge Abbe:

Thank you very much for accepting my letter of May 13, 1976 (copy attached for convenience of other Judges), and presenting it to the Board of Directors for the law library. That they refused to consider my request for permission for full use of the law library in that I have a case before the Superior Court, was quite a shock, for it has created great hardship for me to research and properly prepare my case for presentation.

In fact, on weekends, I have traveled as far as the Mills Tower Library on Bush St.

in San Francisco, as well as other libraries open on Saturday and Sunday in order to try to do things right.

Further, there is Legal Aid for the destitute,

Corporations have their attorneys on retainer,

But, for those who have a case that does not qualify for business deduction, nor have a great cash background, apparently, there is no justice! That this is the justice I enlisted for in the service in WW II, and in fact, received a Captain's Commendation for service above and beyond the call of duty is a shock. The apparent Attorney's Monopoly does not apply to them, only for the corporations who hire their services.

I must add here, that Judge Eaton refused to accept the letter, returned it to me. That Judge Small was not in the Court house that day, so did not have the

privilege to accept or reject the request.

In the meantime, I shall continue to try, not only to keep from losing my case through default of statute of limitations, but also, to find an attorney who has the courage to go against the establishment.

Sincerely,

/s/

Minta H. Reichel
Appearing Propria Personna

cc: Judge Eaton
Judge Samll

The foregoing is my personal opinion--
thank heavens--that we are still allowed
---Minta H. Reichel, June 11, 1976 /s/

THE COURT: All right, Well, I gather from the record that there was no personal service by constable, Sheriff or Marshal and that many papers were simply served by mail?

MR. CIBULA: Yes, in a very odd sequence of envelopes.

THE COURT: Was it your intention to make service in this manner, Mrs. Reichel, or were you simply sending this for informational purposes?

MRS. REICHEL: No. Frankly I didn't know I had to serve a summons. This was due to a lack of the privilege of the library. I have only two hours a day. It is very bad.

THE COURT: Let me tell you something. If you know what you are doing it takes ten minutes to research how to serve a paper, not two hours, not one day. And let me point out something else. People who are practicing before this Court, as lawyers or pro pers, it is not contemplated that they will use the library as a professional library That is a supplement to the lawyer's library of

of litigants and counsel before the Court.

So if you are taking the position that somehow this is all the Board of Trustees' fault you are running down a blind alley. You can get a copy of Civil Procedure very economically for less than a half hour of a lawyer's time, and it is all in the Code of Civil Procedure.

MRS. REICHEL: May it please the Court, in response to Mr. Cibula, in relation to his appearance on May 24th at the Probate Court, he at that time acknowledged service, and simply by appearance, and in accordance with--

MR. CIBULA: (Interposing) Mrs. Reichel, that was a

Minta H. Reichel
P.O. Box 2304
Redding, CA. 96001

August 9, 1977

Chairman
Shasta County Grand Jury
c/o Presiding Judge Small
Shasta County Clerk
Shasta County Courthouse
Redding, CA. 96001

Chairman and Members of the Grand Jury:

On August 6 and August 9, 1977 I placed the attached Public Notice in the Record Searchlight - and hereby request a personal appearance before the Grand Jury on this matter.

Sincerely,

/s/
MINTA H. REICHEL
P.O. Box 2304
Redding, CA 96001

Telephone 241-6772

(Exhibit "D")

PUBLIC NOTICE

Notice is hereby given to the residents, property owners and others in the City of Redding, County of Shasta, California, that MINTA H. REICHEL plaintiff in the cases #54512, No. 54513, 3 CIVIL 16263, 16668, 3 CIVIL 16644 and has filed a claim the CITY OF REDDING AND GOVERNMENT MUNICIPAL EMPLOYEES by letter dated November 19, 1976 rejected on January 4, 1977. Complaint for damages on July 5, 1977, No. 58025 against the City of Redding, et al and Doe 1 through Doe 199 inclusively and who has APPEALED TO THE APPELLATE COURT OF THE THIRD APPELLATE DISTRICT in the Library and Court Building, Sacramento, CA. by a PETITION FOR WRIT OF MANDAMUS For a ruling on the decision of the Board of Directors of the Law Library (3 CIVIL 16668) to compel them to all all those who have paid their law library fees of \$4.00 per case, and others, full use of the law library; that the Board of Directors of the Law Library are governed by the laws in the California Business and Professional Codes Sections 6300 et seq and have caused to have placed a sign on the door of the law library housed in the Shasta County Court House, which reads:

(See Exhibit N-2)

that as the Board of Directors of the Law Library is comprised of the three Superior Court Judges, the Chairman of the Board of Supervisors and one local lawyer according to Section 6301; that the law library is supported in the County Court House by count funds of \$1200.00 and as"... ...Board of Supervisors may appropriate from the county treasury for law library purposes such additional sums as may in their discretion appear proper..."Section 6324; that MINTA H. REICHEL as a resident property owner taxpayer of the City of Redding, a Municipal corporation, the County of Shasta, State of California, who supports the expenses therefore, has aforesaid cases before the

Court and therefore, has legal standing in accordance with law to question the spending of the city and county assets and funds and the actions of government employees in authorizing the expenditures of such fund, which includes authorization for a sign on the law library door which in effect gives preferential treatment to those represented by lawyers and discriminates against those appearing in propria persona (without benefit of lawyer) even though they may all support city and county expenses; that by placing such a severe limitation upon those appearing in propria persona have in effect, denied them equal opportunity to research case law, statutes, codes and other law opinion and other state law to support their issues being presented to court and denied them equal justice according to law, before the court of law, with a fair adversary hearing as guaranteed them by the Constitutions of the State and of the United States; that this public notice is to advise the public of her action behalf and on the behalf of others and to request that anyone agreeing or disagreeing with her write to P.O. Box 2304 Redding, CA. This notice paid for by Minta H. Reichel. Veteran WWII

APPENDIX-0
-----MINUTES OF THE SHASTA COUNTY LAW LIBRARY
BOARD OF TRUSTEES MEETING

A meeting of the Board of Trustees of the Shasta County Law Library was held in the chambers of Honorable Clyde Small on October 31, 1974.

Present: Judge Clyde Small
Henry Keefer
Laurence Carr
Al Cunningham

Absent: Judge Richard Eaton
Judge R. W. Abbe

(Paragraphs 1.--4. and 7.--10. not pertinent to issue.)

"5. The Secretary was authorized and directed to circularize the bar and to deplore the lack of formality presently existing with respect to the removal and return of books. The members of the bar were particularly asked to search their offices and libraries for any books belonging to the County Law Library and to have them returned.

6. The Board determined that as soon as a decision is made with respect to the retention or change of quarters for the library, a key system will be installed whereby the bar alone will have keys. The library will be open at certain hours of the day for the public. Said hours are to be posted and at those times there will be an acting or permanent librarian pre-

sent to supervise the control of the books."

There being no further business the meeting was adjourned.

Respectfully submitted,

/s/

LAURENCE W. CARR, Secretary

APPENDIX-P

October 7, 1975

Victor Lockman
P. O. Box 844
Anderson, California 96007

Dear Mr. Lockman:

Attached is a copy of a determination reached by the Law Library Committee regarding the use of the Law Library by private citizens, and submitted to the Board of Supervisors on October 6, 1975.

This copy is forwarded for your information.

Sincerely,

BESSIE L. SANDERS, Chairman
Board of Supervisors

vb

APPENDIX R

2 October 1975

Board of Supervisors
County of Shasta
Courthouse
Redding, California

Re: Shasta County Law Library

Gentlemen:

Please refer to Sections 6301, 6343 and 6360 of the Business and Professions Code.

Examination of those sections makes it clear that it is the obligation of the Board of Trustees of the Shasta County Law Library to establish the rules under which said law library is to operated.

By reason of the number of books which had previously been removed from the law library and the number which had not been returned, decision has been made that public use of said law library would only be allowed at times when a law librarian is present.

Following the meeting of September 25,

1975, decision was made to stand firm on the prior decision adopted by the Board of Trustees for the Shasta County Law Library and that access to said library should not be allowed by the public without the presence of the law librarian.

At the present time the Board of Trustees is seeking the employment of a full-time law librarian. Upon securing the same, the law library will be open for public use at all times.

Very truly yours,

SHASTA COUNTY LAW LIBRARY COMMITTEE

_____/s/
Honorable Richard B. Eaton, Member

_____/s/
Robert L. Strite, Acting Secretary

/sc

APPENDIX R,1

MEMO

September 24, 1975

FROM: RICHARD C. BRENNAN
Ex-officio Clerk of the Board
of Supervisors
Shasta County Board of Supervisors

TO: Judge Small
Law Library Committee

Victor Lockman appeared before the Board of Supervisors on Monday, September 22, 1975, and made a presentation concerning use of the law library. The Board of Supervisors has referred this matter to you for consideration. A copy of the presentation is attached for your use.

APPENDIX S

Vic Lockman
P. O. Box 844
Anderson, CA 96007

Sept. 22, 1975

Shasta Co. Bd. of Supervisors
Redding, CA

I'm here today because I share a very serious problem with the other citizen-taxpayers of Shasta County. We have just recently been locked out of the Shasta County Law Library except from 3 to 5 P.M. daily, whereas formerly the door was open all day. A sign posted on the law library door states that lawyers may obtain a key at any hour and that lawyers only may check out books. Lay people have no such privileges. This restriction comes at an especially bad time for me, since as you know, the librarian, County Counsel, and all of you Supervisors are defendants in a civil rights law suit which I have filed propria persona in the U.S. District

Court. For good reasons I have optioned to do my own legal work and now on the eve of filing a "Motion to Set for Trial" and "Certificate of Readiness" I find that some of the very persons I wish to bring to trial for violating my civil rights are responsible for obstructing my legal research; namely you, the Shasta County Board of Supervisors.

Allow me to briefly outline the situation:

1. Whose Law Library is it?

The Law Library Committee (created by statute) is composed of Judges Abbie, Eaton, Small. Also on the Committee, and appointed by the Board of Supervisors is Mrs. Bessie Saunders & Local Lawyers, Carr and Srite. It's interesting to note that Gov. Brown recently appointed lay people to the Calif. BAR. Assoc. Why can't we even have free access to the Law Library much less serve on its committee here in

Shasta County? In other counties the taxpayers are not so discriminated against to give monopolistic use of the libraries to the "LEGAL PROFESSION."

It is said that local lawyers contribute \$150 annually to the law library trust fund but I do not believe this is so. Such sums collected by the BAR Assoc. are spent to conduct seminars & lobbying activities in Sacramento.

Last night Judge Eaton told me that the law books are not purchased with actual tax dollars but with Court Filing Fees! But I ask you, who if not the public, is entitled to benefit from monies taken in by the County from whatever source? Who dares to appropriate such funds largely for the benefit of private lawyers?

I asked Judge Eaton if he didn't think ordinary citizens have as much right to use the law library as private lawyers.

His answer..."NO! We've had too many books turn up missing & we're trying to build up the library." Notice the assumption that ordinary citizens, not lawyers, must be guilty of taking the books. The whole idea of restricting us is an implication that we can't be trusted. Why, after the "Watergate" scandal involving mostly lawyers, does anybody still harbor the illusion that lawyers are more trustworthy than the rest of us. Further, if the committee is really trying to build up the law library why are they disposing of many valuable sets of books such as the "Deering Calif. Code" and "American Juris-Prudence"? One reason advanced for explaining why these books must be thrown away instead of sold is that they were purchased with...(note) "public funds."

Judge Eaton himself admits that the law library has been "public" for 40 years.

Note also that tax-paid public servants handle & disperse the funds and that the library itself is housed in public property--this very courthouse! How can anyone dare to deny or restrict the public from access to the laws of the land that "we the people" have established?

In Shasta County do we really have a gov't of the people, by the people & for the people...or is it a county gov't of, by, and for the judges, lawyers, and politicians?

In conclusion I wish to offer a few helpful suggestions.

Will the Bd. of Supervisors promptly investigate the Law Library Committee and its recent discriminatory rulings aforementioned?

It would be well for the general public to again be allowed access at any hour of the day to the library, and be offered every privilege offered to lawyers.

A 5¢ or 10¢ copying machine in the law library would remove the necessity of most book withdrawals.

Allow the general public to sign for the key (with proper I.D.) if security is important. Issue "law library" cards, perhaps taking a deposit from all applicants, including our friends the lawyers.

Finally, if I can't resume my legal research here freely as in times past I'll very shortly take appropriate legal action against all parties involved in this unwarranted deprivation of rights

/s/

Victor E. Lockman

APPENDIX-S

TED ROBERTS
State Commander & Chairman
California Veterans Grievance Committee
BOX 1143
ANDERSON, CALIF. 96007
Phone (916) 365-4992

Dear Minta H. Reichel:

We are in support of your struggle for equal access to the Shasta County legal library, and it appears, strongly, you are not altogether wrong when you feel each citizen should be equal to any attorney (who gets a free ride on we tax payers dollar, and uses such legal books to gain a profitable end for himself) and your notice is well taken as to the intent of the chosen few.

Such illegal and discriminatory practice should cease, next the elected boards will refuse us our other libraries, then they will tell us what we can be knowledgeable of, and what we cannot.

As a large taxpayer, for many years, in

this county, I am beyond words as to the chosen fews, refusal of the masses to openly use the law library, after all we paid for it, paid the employees wages, the utilities etc. Are the chosen few telling the all of us that the laws are only to be sought out by the attorney's? If such be fact, then does not one have the right to presume that knowledge of the laws, the assistance of the laws, are refused a citizen by what strangely seems a group of attorneys and hanky panky politics?

May I ask, why the attorney's can check law books out, but we are forbidden such pleasure, in defense of our rights and vested guarantees of the U.S. Constitution. Is it their words that laymen are incapable of understanding the written laws, or is it a case of refusing all of us such to cause a cessation of our rights to self defense and representation?

No doubt you have considered a Tax Payers suit, a joint action on behalf of the many. In the last four years I have won twenty-six (26) federal cases, and eighteen (18) state cases, all filed within the Federal District Court in S.F. Much of my law study and findings were obtained in the law library in Napa County, for it does not refuse a citizen his right to use said law library.

Agreed, I compiled the cases, the Supreme Court decisions, State decisions, all the data for our attorneys, when they go to pre-trial they have all the evidence they need, and more.

No doubt you sense I represent thousands of veterans, and am a constant reader of many fields of law, such obtained in free libraries, purchased law books, State and federal Agency laws, all are public, why is not the Shasta Co. law library public?

No doubt the "roots" of said abusive

actions, can be found in the political structure of this shabby mess. My attorneys welcome my years of knowledge, and it saves me fifty-dollars (\$50.00) an hour legal fees.

I cannot begin to tell you of the cases I handle, I research, I brief for our attorneys, they never cease wondering how I obtain facts that even "writts of discovery" do not uncover.

As each citizen is vested with the right to defend, or to protect in his own behalf, how can he if he does not have the legal tools to come about goodly legal ends? Do the attorneys have a "corner" on all law education? Such appears to me a direct barr to your and others rights to knowledge--a most sacred right. We often hear, "know the laws," how can such come about when goodly pleads are treated much like "giving medicine to the dead?"

I deeply admire you for what you are

about, and know such struggle will be, and had been, cloaked in political abuses. I have found that court actions are much more deserving of my time than sitting before a seemenly group of degenerates, such carries not only in local issues but in the State Capitol and in Washington D.C. It took me years to obtain the key that cuts all the red tape that chokes the right of an issue to death.

Again I support your most worthy confrontation, and pray you the relief you so rightfully are deserving of, such, in the end, will affect many who desire the right to the legal library.

My kind regards attend you,

/s/
Ted Roberts

APPENDIX Sa

C.F. Smith
St. Rt. 2, Box 149
Burney, CA 96013
8-26-77
ph 335-4710

Minta H. Reichel
P. O. Box 2304
Redding, CA

Dear Sir:

I agree with your stand. Isn't this law library also supported by us County & State residents thru the Board of Supervisors for Shasta County?

/s/
Charles F. Smith

APPENDIX Sb

8-8-77

Dear Mrs. Reichel,

Agree with you 100%--know a lot of others
in area who do too--

Would like to talk to you personally
some time--

League of Women Voters are interested
in this issue also..

Good luck in your venture into never,
never land--

Sincerely,

/s/

Stuart M. Oliver
2762 Russell Street
Redding, Calif. 96001

APPENDIX-T

SUPERIOR COURT OF THE STATE OF
CALIFORNIA FOR THE COUNTY OF SHASTA

Minute Book 100 Hon. R.W. Abbe
Page 122
Date May 14, 1973

(Filed May 15, 1973, Richard C. Brennan,
Clerk)

#42361
MINTA H. REICHEL,
Plaintiff,

vs

CITY OF REDDING, et al,
Defendants.

MEMORANDUM OF DECISION

The evidence presented in this case
established that in the spring of 1970
Mrs. Kincaid, the tenant and occupant of
plaintiff's property, became aware that
the cracks in the pool apron had become
much larger and more extended than they
had been the previous fall when the pool
was covered. This was apparent to her
upon making preparations to use the pool

for the coming season by cleaning and uncovering, and it alarmed her sufficiently to feel required to notify her landlord.

The photographs taken and introduced into evidence clearly indicate that considerable excavation of the creekbed occurred at the northeast corner of the plaintiff's property when the defendant City cleaned out the creekbed and the defendant Ochinero commenced construction of the culvert for the defendants Woodward and Nichols. The photographs introduced into evidence here as Defendant's Exhibit G and Plaintiff's Exhibit 3-C show quite clearly that a great deal of the creekbed was removed from that critical area. The Court is satisfied that it is more than just coincidence that the widening and extension of the cracks occurred during the time the City and Ochinero were involved with the excavation of this area. The

evidence did indicate that the plaintiff was losing some of her support for her north wall over the years, but the amount of undercutting and loss of support dramatically increased at the time of the activities of the defendants in this area. The visual examination made by the Court of the completed work of construction made it clear that the northeast corner of plaintiff's wall continues to be subjected to scouring and erosion during times of high water as a result of the defendants' work of construction to the detriment of plaintiff in maintaining the support of her pool apron and equipment. The wing wall has the obvious effect of allowing additional and perhaps disastrous scouring and erosion of the soil under plaintiff's retaining wall and pool apron.

The Court is satisfied by a preponder-

ance of the evidence that plaintiff's problems with the pool apron and the accelerated undercutting of her wall is the result of the activities of the defendants excavating and construction work and that the cost of repairs and construction to stabilize the situation as it now exists is the sum of \$985.00, plus her costs of suit.

cc: Minta H. Reichel
Clyde Small
Charles C. Dawson, Jr.
Laughlin, Craig & Christensen

/s/ R. W. Abbe

Judge

APPENDIX - U
SUPERIOR COURT OF THE STATE OF
CALIFORNIA FOR THE COUNTY OF SHASTA

---0---

MINTA H. REICHEL,	)	No. 42361
Plaintiff,)	
	)	FINDINGS OF FACT
vs	)	AND CONCLUSIONS
	)	OF LAW
CITY OF REDDING, et al,)	
<u>Defendants.</u>)	

The above-entitled action came on regularly for trial on April 17, 1973, before the above-entitled court, sitting without a jury, FRANKLIN CIBULA, of the law firm Cibula & Cibula, appearing on behalf of the plaintiff; CLYDE SMALL appearing on behalf of defendant CITY OF REDDING: MAYNARD CRAIG, of the law firm Laughlin, Craig & Christensen, appearing on behalf of defendant OCHINERO CONSTRUCTION COMPANY; and ROLAND K. IVERSON, of the law firm Rich, Fuidge, Dawson, Marsh, Sanbrook & Grove, appearing on behalf of defendant WOODWARD AND NICHOLS, and the

court having heard the testimony and having examined the proofs offered by the respective parties, and the cause having been submitted to the court for decision, and the court being fully advised in the premises, now makes its findings of fact and conclusions of law as follows:

FINDINGS OF FACT

1. That in the late winter and early spring of the year 1970, the defendant CITY OF REDDING cleaned out the creek bed and excavated a part thereof immediately to the north of a concrete wall of the plaintiff. Said wall is necessary for supporting plaintiff's land to the south of such wall and to keep intact her swimming pool and appurtenances.

2. That the defendant OCHINERO CONSTRUCTION COMPANY constructed a culvert on the lands of the defendant NICHOLS and WOODWARD immediately to the east

of plaintiff's property, which work included considerable excavation of the creek bed at the northeast corner of plaintiff's property. This work construction was undertaken immediately after the defendant CITY OF REDDING had done its work of excavation and clearing.

3. The work undertaken by the CITY OF REDDING and by OCHINERO CONSTRUCTION COMPANY on behalf of NICHOLS and WOODWARD combined to cause an undermining of the plaintiff's wall, a subsistence of her land and loss of support.

4. That the completed work of construction continues to subject plaintiff's land to scouring and erosion underneath her wall to the detriment of plaintiff in maintain the support of her pool apron and equipment which if not abated will result in further undercutting and erosion, and loss of stability

and further damage to plaintiff's property.

5. That plaintiff's damages and the cost of construction of adequate works to prevent further damage is the sum of \$985.00.

CONCLUSIONS OF LAW

As a conclusion of law from the above facts, the Court finds that plaintiff is entitled to judgment in the total sum of \$985.00 against all the defendants herein, plus her costs of suit.

DATED this 25th day of May, 1973.

/s/ R. W. Abbe
Judge of the Superior Court

APPENDIX - V

SUPERIOR COURT OF THE STATE OF
CALIFORNIA FOR THE COUNTY OF SHASTA

Oct. 12, 1973 Hon. R.W. Abbe,
#42361

MINTA H. REICHEL,
Plaintiff,

vs

CITY OF REDDING, et al,
Defendants.

O R D E R

The request of plaintiff for Findings of Fact and Conclusions of law, filed herein on September 28, 1973, is denied. The Court advises plaintiff that Findings of Fact and Conclusions of law will not be prepared in this case.

cc: Minta H. Reichel, 3061 Fulton Avenue
Sacramento, CA 95821
Clyde Small, P.O.Box 2256, Redding, CA
Maynard Craig, PO Box 676, Chico, CA
Roland Iverson, PO Drawer A, Marysville, CA 95901

/s/ R.W. Abbe

Judge

APPENDIX - W
-----RESOLUTION NO. 1972-1RESOLUTION RE LAW LIBRARY FUNDS

The Board of Law Library Trustees of Shasta County finds that the hereinafter stated increase is necessary to defray the expenses of the Law Library, and therefore:

RESOLVES: That effective immediately the costs provided in Sections 6321 and 6322 of the Business and Professions Code shall be increased to FOUR DOLLARS (\$4.00), effective March 4, 1972.

Duly adopted this loth day of February, 1972, by the Board of Law Library Trustees of Shasta County as follows:

AYES:

NOES:

ABSENT:

/s/ Richard B. Eaton
Acting Chairman, Board of Law Library
Trustees of Shasta County

APPENDIX-X

In The
SUPERIOR COURT OF THE STATE OF CALIFORNIA

In And For The
COUNTY OF SHASTA

---oOo---

MINTA H. REICHEL,
Plaintiff,

vs.

ALVIN M. CIBULA, etc., et al.,
Defendants.

) No.54512

---oOo---

MOTION TO QUASH SERVICE

Redding, California

Tuesday, July 6, 1976

---oOo---

ALBERT C. PETERSON
OFFICIAL COURT REPORTER
COURTHOUSE
REDDING, CALIFORNIA
C. S. R. NO. 627

MOTION TO QUASH SERVICE

Tuesday, July 6, 1976

(Proceedings before Honorable Clyde Small, Judge of the Superior Court presiding. The Plaintiff appeared in propria persona. The Defendant was represented by Franklin S. Cibula, Attorney at Law).

PROCEEDINGS

THE COURT: Number 54512, Reichel vs Cibula, et al

Mr. CIBULA: Yes, your Honor. That was our Motion. and the motion did exactly what I hoped it would do, and that is it prompted what I believe now is effective service. The reason for the motion is that I received a lot of material in the mail and I didn't want to be forced to decide what I might answer or what the clerk might be receiving a default on. So at this point I think the motion could be granted but it is moot. But I would ask to, say, July 20th, to answer.

THE COURT: Well, it is entirely moot if there has been a new service.

MR. CIBULA: Yes, but I don't want any possible

default during the period of that service. I believe it was on the 18th. I am not positive.

THE COURT: Well, I think you can depend on the Clerk's Office not to enter a default unless there is proof of valid service.

MR. CIBULA: That's all I wanted on this motion.

THE COURT: There is a valid service now?

MR. CIBULA: There was a valid service on June 18th.

THE COURT: ALL right. Well, I gather from the record that there was no personal service by Constable, Sheriff or Marshall and that many papers were simply served by mail?

MR. CIBULA: Yes, in a very odd sequence of envelopes.

THE COURT: Was it your intention to make service in this manner, Mrs. Reichel, or were you simply sending this for informational purposes?

MRS. REICHEL: No. Frankly I didn't know I had to serve a summons. This was due to a lack of

the privilege of the library. I have only two hours a day. It is very bad.

THE COURT. Let me tell you something. If you know what you are doing it takes ten minutes to research how to serve a paper, not two hours, not one day. And let point out something else. People who are practicing before this Court, as lawyers or as pro pers, it is not contemplated that they will use the library as a professional library. That is a supplement to the lawyer's library of litigants and counsel before the Court.

So if you are taking the position that somehow this is all the Board of Trustees' fault you are running down a blind alley. You can get a copy of the Code of Civil Procedure very economically for less than a half hour of a lawyer's time, and it is all in the Code of Civil Procedure.

MRS. REICHE: May it please the Court, in response to Mr. Cibula, in relation to his appearance on May 24th at the Probate Court, he at that time acknowledged service, and simply by appear-

ance, and in accordance with ---

MR. CIBULA: (Interposing) Mrs. Reichel, that was a Probate proceeding and nothing to do with this.

THE COURT: That wasn't in this action, was it?

MR. CIBULA: No, It was in the Probate Court.

THE COURT: Upon Mrs. Reichel's acknowledgment that she was not purporting to make service, no further order is necessary. And service has been made now so there is nothing before the court at this time.

MR. CIBULA: Thank you, your Honor.

---cOo-----

CERTIFICATE OF OFFICIAL COURT REPORTER

I, ALBERT C. PETERSON, hereby certify that I am an Official Court Reporter of the Superior Court of the State of California, in and for the County of Shasta, and that I took down verbatim in stenographic writing all the proceedings had upon the 6th day of July, 1976 before Honorable Clyde Small, Judge of the Superior Court presiding in

that certain cause entitled: MINTA H. REICHEL,
Plaintiff vs ALVIN M. CIBULA ETC, ET AL, Defendants
Number 54512;

That my said stenographic writing contains a
full, true and correct record of all said proceed-
ing; that I have caused such stenographic writing
to be transcribed into typewriting, and that the
foregoing 4 pages constitute my said transcription
and the same is true and correct.

DATED: _____ 1978

/s/ _____

Albert C. Peterson

Official Court Reporter
C.S.K. No. 627

APPENDIX- Y

3 CIVIL NO.
16,087

In the Court of Appeal
of the
State of California

THIRD APPELLATE DISTRICT
(Filed Mar 7 1977)

MICHAEL A. MAGALDI and TONI A.
MAGALDI,

Plaintiffs, Appellants
and Cross-Respondents,

vs.

WILLIAM B. NYSTROM, WILLIAM V. IVEY,
FRANK W. SHUMAN, et al.,
Defendants, Respondents
and Cross-Appellants.

REPLY BRIEF OF RESPONDENT AND CROSS-
APPELLANT

FRANK W. SHUMAN

Appeal from the Judgment of the Superior
Court
of the State of California, in and for the
County of Shasta
Honorable Clyde Small, Judge

FRANK W. SHUMAN,
Attorney at Law,
1939 Butte Street,
Post Office Box 156
Redding, Ca. 96001
Telephone: (916)
243-6355

In Propria Persona.

APPENDIX-Z

CIBULA & CIBULA
Attorneys at Law
1743 Tehama Street
Redding, California 96001

Alvin M. Cibula
Franklin S. Cibula

Mailing Address
Post Office Box AM

May 22, 1973

Mrs. Minta Reichel
1945 Shasta Street
Redding, California

RE: Reichel vs City of Redding, et al

Dear Mrs. Reichel:

As you know you owe this office the sum of \$585.33 which is court costs plus one-third of recovery per agreement. As you also know by mutual consent we have been relieved as counsel. This does not relieve you of the duty to pay us a fee. In California if the attorney is terminated prior to judgment he is allowed to request his time, rather than the contingent fee. Although this is far more than the contingent fee agreement we are still willing to accept our original contract with you.

We realize that you must prepare a judgment and

a cost bill in order to complete the transaction. We are therefore willing to assist you in preparing those documents at no extra charge.

It is particularly important that we assist you with the cost bill as there are considerable witness fees and other costs which can be collected if properly prepared.

We do not intend to impose our services on you.

We are satisfied to be relieved as counsel and are only looking to you for payment of our bill in the sum of \$585.33. We are however, willing to assist you in preparation of all final documents in order that you will not have any additional expenses on this case.

I will look forward to hearing from you immediately.

Very truly yours,

CIBULA & CIBULA

/s/ _____
Franklin S. Cibula

FSC:cm

APPENDIX - AA

..CALIFORNIA CODE OF CIVIL PROCEDURE Sec.904.1:

Superior Courts; appealable judgments and orders

An Appeal may be taken from a superior court in the following cases:

(a) From a judg., except (1) an interlocutory judgment, other than as provided in subdivisions (h), (i) and (j), (2) a judgment of contempt which is made final and conclusive by Section 1222, or (3) a judgment on appeal from a municipal**justice* or small claims court.

(b) From an order made after a judgment made appealable by subdivision (a).

(c) From an order granting a motion to quash service of summons or granting a motion to stay or dismiss the action on the ground of inconvenient forum.

(d) From an order granting a new trial or denying a motion for judgment notwithstanding the verdict.

(e) From an order discharging or refusing to discharge an attachment.

(f) From an order granting or dissolving an injunction, or refusing to grant or dissolve an injunction.

(g) From an order appointing a receiver.

(h) From an interlocutory judgment, order, or decree, hereafter made or entered in an action to redeem real or personal property from a mortgage thereafter made or entered in an action to redeem real or personal property from a mortgage thereof, or a lien thereon, determining such right to redeem or directing an accounting.

(i) From an interlocutory judgment in an action for partition determining the rights and interests of the respective parties and directing partition to be made.

(j) From an interlocutory judgment of dissolution of marriage *****

(k) From an order or decree made appealable by provisions of the Probate Code *****

APPENDIX - BB

CALIFORNIA BUSINESS AND PROFESSIONAL CODE

SECTION 6300. Existence of boards in counties

There is in each county of this State a board of law library trustees, which governs the law library established for the county under the provisions of this chapter. (this chapter was derived from Political Code §§4190 to 4204, added Stats 1907 amended Stats 1915**1923**1927** 1931**1939, c186, 01435 and repealed by Stats 1941* SEC. 6301- Constitution of the board

A board of law library trustees is constituted as follows:

(a) In a county where there are no more than three judges of the superior court, each of such judges is ex officio a trustee; in a county where there are more than three judges of the superior court, the judges of the court shall elect three of their number to serve as trustees. However, where there are no more than three judges of the superior court, the judges may at their option

select only one of their number to serve as a trustee, if in such event they shall appoint two additional trustees who are members of the bar of the county.

Any judge who is an ex officio or elected member may at his option designate a member of the bar of the county to act for him as trustee.

(b) In a county in which one of two municipal courts have been established.....

(c) the chairman of the board of supervisors is ex officio a trustee, but the board of supervisors at the request of the chairman may appoint a member of the bar of the county or any other member of the board of supervisors of the county to serve as trustee in place of said chairman. The appointment of the person selected in lieu of the chairman of the board of supervisors shall expire when a new chairman of the board of supervisors is selected, and such appointment shall not be subject to the provisions of Sec. 6302.

(d) The board of supervisors shall appoint as

many additional trustees, who are members of the bar of the county, as may be necessary to constitute a board of five members in any county in which a municipal court has not been established, or of six members in any county where the municipal courts have elected one member, or of seven members in any county where the municipal courts have elected two members to serve as trustees. (States 1971**

Section 6321. Filing fee on the commencement to the superior court of any county in this State, of any civil action, proceeding, or appeal, and on the commencement in, or removal to, the municipal court of justice court in any county of any civil action or proceeding, the party instituting such proceeding, or filing the first papers shall pay to the clerk of the court, for the law library, on filing the first papers, the sum of one (\$1) as costs, in addition to the fees fixed by law.

Section 6322.1 Increase of fees; effective date

(a) except in counties containing a population

of 4,000,000 and over, the board of supervisors of any county may increase the costs provided in Sections 6321 and 6322 to not more than seven dollars (\$7) for each event there described whenever it shall determine that the increase is necessary to defray the expenses of the law library.

(Increased by order of Trustees to four dollars (\$4) Appendix W, infra, pp 88, (in Shasta County).

Section 6324: Additional payments to fund

The board of supervisors of any county may set apart from the fees collected by the county clerk, sums not exceeding one thousand two hundred dollars (\$1,200) in any one fiscal year, to be paid by the county clerk into the law library fund in addition to the moneys otherwise provided to be deposited in that fund by law. The board of supervisors may also appropriate from the county treasury for law library purposes such additional sums as may in their discretion appear proper. When so paid into the law library fund, such sums shall constitute a part of the fund and be used for the same purposes.

(Calif. Bus.Pro.Code Cont).

Section 6360: Use of library; charges

A law library established under the provisions of this chapter shall be free to the judiciary, to State and county officials, to members of the State Bar, and to all residents of the county, for the examination of books and other publications at the library or its branches.

The board of law library trustees may permit the removal of such books and other publications from the library and its branches as it considers proper, subject to such rules, and, in its discretion, the giving of such security, as it may provide to insure the safekeeping and prompt return thereof, but no security shall be required of members of the judiciary or county officials. They may provide for the levying of fines and charges for violation of the rules, and may make charges to cover the cost of special services, such as the making of photocopies of pages of library books, and messenger service.

The board of law library trustees may require persons other than members of the judiciary, county officials, and members of the bar resident in the county, to pay such dues as the board may fix for the privilege of removing books and other publications from the library.

Section 6361 Quarters and facilities

The board of supervisors of the county in which the law library is established shall provide sufficient quarters for the use of the library upon request of the board of law library trustees, except that the board of supervisors need not provide such quarters when the board of law library trustees determines it has sufficient funds, over and above those necessary for operation and maintenance expenses, to provide its own quarters. Such provision may include, with the room or rooms provided, suitable furniture, window shades, floor coverings, lighting, heat, telephone, janitor service.

APPENDIX - CC

LEGAL NOTICE (Filed on Oct-
(
ORDINANCE NO. 944 (ober 9, 1967.)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REDDING AMENDING THE REDDING CITY CODE, 1959 AS AMENDED, BY REPEALING SECTION 19-20 AND SUBSTITUTING THEREFOR A NEW SECTION 19-20 PERTAINING TO THE OBSTRUCTION OF NATURAL WATER CHANNELS, PERMITS THEREFOR AND STORM DRAINAGE CONSTRUCTION STANDARDS

The City Council of the City of Redding does hereby ordain as follows:

Section 1. The Redding City Code, 1959, as amended, is hereby amended by repealing Section 19-20, as follows:

"Section 19-20. Obstruction of natural water channels, permits therefor, and storm drainage construction standards.

No person shall in any manner fill or obstruct any natural water channel, including natural storm water channels within the boundaries of the City without first applying for and obtaining a written

permit for such purpose from the Director of Public Works. All construction of bridges, conduits, box culverts, or other storm drainage improvements across, along or in a natural water channel shall be constructed and installed in accordance with standards and specifications established by the City Council by resolution, copies of which shall be on file in the office of the Director of Public Works and the office of the Building Inspector, to which reference should be made for particulars.

The City Council may amend or change such regulations and standards from time to time hereafter by resolution. (Emphasis added herein.)

The Director of Public Works shall condition all permits issued pursuant to this Section in accordance with the standards and specifications applicable to the fill or obstruction proposed to be constructed. A copy of this Section of the Code shall be attached to all permits issued pursuant to this Section." ATTEST:s/Mildred L. Brayton; FORM APPROVED:s/Earl D. Murphy C/R Atty.

APPENDIX - DD

California Civil Code Section 832. Lateral and adjacent support; excavations; degree of care; damages; protection of other structures

Each coterminous owner is entitled to the lateral and adjacent support which his land receives from the adjoining land, subject to the right of the owner of the adjoining land to make proper and usual excavations on the same for purposes of construction or improvement, under the following conditions:

1. Any owner of land or his lessee intending to make or to permit an excavation shall give reasonable notice to the owner or owners of adjoining lands and of buildings or other structures, stating the depth to which such excavation is intended to be made, and when the excavating will begin.

2. In making any excavation, ordinary care and skill shall be used, and reasonable precautions taken to sustain the adjoining land as such, without regard to any building or other structure which

may be thereon, and there shall be no liability for damage done to any such building or other structure by reason of the excavation, except as otherwise provided or allowed by law.

3. If at any time it appears that the excavation is to be of a greater depth than are the walls or foundations of any adjoining building or other structure, and is to be so close as to endanger the building or other structure in any way, then the owner of the building or other structure must be allowed at least 30 days, if he so desires, in which to take measures to protect the same from any damage, or in which to extend the foundations thereof, and he must be given for the same purposes reasonable license to enter on the land on which the excavation is to be or is being made.

4. If the excavation is intended to be or is deeper than the standard depth of foundations, which depth is defined to be a depth ***nine feet below the adjacent curb level, at the point where the joint property line intersects the curb and if on

the land of the coterminous owner there is any building or other structure the wall or foundation of which goes to standard depth or deeper than the owner of the land on which the excavation is being made shall, if given the necessary license to enter on the adjoining land, protect the said adjoining land and any such building or other structure thereon without cost to the owner thereof, from any damage by reason of the excavation, and shall be liable to the owner of such property for any such damage, excepting only for minor settlement cracks in buildings or other structures.

(1968 Amend. Sustituted "nine feet" for "twelve feet" as the standard depth of foundations.

(Letter requested from the City of Redding files)

July 6, 1970

File: 580.4

Ochinero Construction Co., Inc.

2653 Bechelli Lane

Redding, California 96001

Subject: Enclosure of a Portion of Calaboose Creek
at the Southwest Corner of West and Shasta
Streets

Dear Ed:

Last March and April during our several conversations regarding the enclosure of the portion of Calaboose Creek that was within your property, we discussed at great length the several alternate materials and types of conduit that would be satisfactory. After you finally settled on the reinforced concrete invert with the corrugated metal upper section, we submitted a sketch to you for a reinforced concrete invert that was acceptable to this office. This base incorporated the use of a galvanized angle in this concrete stem wall to

which the corrugated metal sections were bolted. You subsequently conferred with Mr. Bob Ryan, Operations Manager and others of the Pacific Corrugated Culvert Co. Upon their recommendation and assurance that the angle in the stem wall was not needed and that further there was no need for the bolting together of the corrugated metal sheets along the circumferential laps in order to effect a satisfactory installation, this office agreed to delete this requirement from your installation. Their arguments were that the metal would be stiff enough to prevent the bending and deflection necessary for the sheets to be dislodged from the formed groove in the stem wall. During the initial back fill operations on the first portion of this conduit, it was observed by us and also by you that these sheets were being displaced from the formed groove. You, subsequently, had your contractor place struts inside of the conduit to hold the corrugated metal sheets in place while you were placing backfill material.

Ochinero Construction Co., Inc.

July 6, 1970

Page 2

When we made our final inspection of this conduit after all backfill had been placed and your lot had been paved, we found that there are instances where the sheets have been displaced from the groove to the point where they have almost no bearing on the stem wall. Several panels have deflected at the circumferential laps, and the corners of individual sheets have been abnormally deflected away from its adjacent panel.

Before this office can give final approval to this conduit, it is imperative that you correct the defects in a manner satisfactory to this office.

Very truly yours,

CARL ARNESS
Director of Public Works

/s/ _____
JACK E. LANG
Assistant City Engineer

JEL:ln
XXXXXXXXXXXX

(inserted here is a copied photo of the problem area)

CALIFORNIA GOVERNMENT CODE

Section 821.4 Failure to inspect, or negligent inspection of, property.

A public employee is not liable for injury caused by his failure to make an inspection, or by reason of making an inadequate or negligent inspection, of any property, other than the property (as defined in subdivision (c) of Section 830) of the public entity employing the public employee, for the purpose of determining whether the property complies with or violates any enactment or contains or constitutes a hazard to health or safety.

(Added Stats. 1963, C.1681, p3270,Sec.1.)

Section 822.2 Misrepresentations.

A public employee acting in the scope of his employment is not liable for an injury caused by his misrepresentation, whether or not such misrepresentation be negligent or intentional, unless he is guilty of actual fraud, corruption or actual malice. (Added Stats. 1963, c 1681,p3270,Sec.1.)

CALIFORNIA CODE OF CIVIL PROCEDURE

Section 338. Three years; statutory liability, exception; trespass or injury to realty; taking detaining or injuring goods or chattels; fraude or mistake; bond of public official; notary public, additional time, maximum limit; slander of title; false advertising

Within three years:

1. An action upon a liability created by statute, other than a penalty or forfeiture.
2. An action for trespass upon or injury to real property.

4. An action for relief on the ground of fraud or mistake. The cause of action in such case not to be deemed to have accrued until the discovery, by the aggrieved party, of the facts constituting the fraud or mistake.

CALIFORNIA CIVIL CODE

Section 1573. Constructive fraud

CONSTRUCTIVE FRAUD. Constructive fraud consists:

1. In any breach of duty which, without an actually fraudulent intent, gains an advantage to the person in fault, or any one claiming under him, misleading another to his prejudice, or to the prejudice of any one claiming under him; or,

2. In any such act or omission as the law specially declare to be fraudulent, without respect to actual fraud. (enacted 1872).

RESTATEMENT OF LAW, JUDGMENTS, FORMER ADJUDICATION

Section 49: JUDGMENT FOR DEFENDANT NOT ON THE MERITS.

Where a valid and final personal judgment not on the merits is rendered in favor of the defendant, the plaintiff is not thereby precluded from thereafter maintaining an action on the original cause of action and the judgment is conclusive only as to what is actually decided .

a. Judgment not on the merits. A judgment for the defendant is not on the merits where it is based merely on rules of procedure rather than on rules of substantive law. If the judgment determines that the plaintiff has no cause of action, it is on the merits; but if it determines only that the plaintiff is not entitled to recover in the particular action, it is not on the merits. If the defendant, whether on demurrer motion, verdict or otherwise, obtains judgment in his favor on ground not involving the substance of the plaintiff's cause of action, the cause of

is not extinguished thereby. This is the case, for example, where the judgment is based on the lack of jurisdiction of the court over the defendant or over the subject of the action....."

b. Effect of judgment as to issues decided. Although, where the judgment for the defendant is not on the merits, the plaintiff is not precluded from maintaining a new action on the same cause of action, he is precluded from relitigating the very question which was litigated in the prior action....."

RESTATEMENT OF LAW, JUDGMENTS, FORMER ADJUDICATION Section 68 (1948 Supp.) QUESTIONS OF FACT:

1. Where a question of fact essential to the judgment is actually litigated and determined by a valid and final judgment, the determination is conclusive between the parties in a subsequent action on a different cause of action, except as stated in Sections 69, 71, 72.

2. A judgment on one cause of action is not conclusive in a subsequent action on different

on a different cause of action as to questions of fact not actually litigated and determined in the first action.

Comment g: California Employment Stabilization Comm. v Matcovich 74 Cal.App.2d 398, 168 P.2d 702 (1946) ("the estoppel of judgment extends only to the facts in issue as they existed at the time the judgment was rendered, and does not prevent a re-examination of the same questions between the same parties where in the interval the facts have changed or new facts have occurred which may alter the legal rights or relations of the litigants.") See also: *Freman v Marshall*, 137 Cal 159, 69 Pac. 986 (1902); *Kibbe v Graves*, 47 Cal App. 575, 191 Pac.81, 84, (1920); *Board of Education v Fowler*, 19 Cal 11 (1861); *Hurd v Albert* 214 Cal 15, 31 P. P.2d 545, 76 ALR 1348 (1931).

APPENDIX -KK

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SHASTA

Minute Book 118

DEPT. I

Hon. R.W. ABBE,

Date: Nov. 3, 1977

#58025

MINTA H. REICHEL,

Plaintiff,

vs

CITY OF REDDING, et al,

Defendants.

NATURE OF PROCEEDINGS --

The demurrers of defendants are sustained without leave to amend on the following grounds:

1. The Complaint herein does not state facts sufficient to constitute a cause of action in that it is barred under the doctrine of res judicata and/or collateral estoppel by the final determination of the prior litigation in the action entitled Minta H. Reichel vs City of Redding, et al, Shasta Action #42361.

---o0o---

2. The Complaint herein does not state facts sufficient to constitute a cause of action in that it is barred under the doctrine of res judicata and/or collateral estoppel by the prior litigation in the action entitled Minta H. Reichel vs City of Redding, et al, Shasta County Action No. 54513.

3. There is another action pending between the same parties on the same cause of action, to-wit, Shasta County Action No. 54513, which action is presently pending before the Court of Appeals for the Third Appellate District pursuant to plaintiff's appeal from the judgment of dismissal following the sustaining of a demurrer without leave to amend by the Shasta County Superior Court.

FILED: NOV. 3, 1977

cc: Minta H. Reichel, P.O. Box 2304, Redding, CA.

Rich, Fudge, Marsh & Morris, Attorneys at Law

P.O. Drawer A, Marysville, CA 95901

Tocher and Gazzigli, Attorneys at Law, P.O.

Box 2256, Redding, CA 96001

Laughlin Craig & Christensen, 45 Main St. Chico, CA.
/s/R,W,ABBE--Judge

APPENDIX -LL

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SHASTA

Minute Book 120

DEPT.II

Hon. R.W. ABBE, Judge

Date: June 24, 1976

#54513

FILED: June 25, 1976-Moore.Dep.cl.

MINTA H. REICHEL,

Plaintiff

VS

CITY OF REDDING, et al

Defendants

Nature of Proceedings: RULING ON DEMURRERS

The demurrers of defendants Ochinerro Construction Company, Inc., a corporation, Edward H. Ochinerro, Beatrice Ochinerro, Woodward & Nichols, a co-partnership, Willard Woodward, Jane Woodward, Eugene Nichols and Tammy Nichols are sustained without leave to amend.

The sustaining of the demurrers without leave to amend is made on the grounds that the complaint

herein does not state facts sufficient to constitute a cause of action in that it is barred under the doctrines of res judicata and collateral estoppel by the final determination of the prior litigation by the plaintiff against these defendants in action #42361 Shasta County, California.

The Court does hereby take judicial notice of all the court records in said action #42361. The instant complaint arises from the same factual situation as the prior suit and therefore as stated in Kronkright vs. Garner 31C2d215, "The fact that different forms of relief were sought is here irrelevant. Were the rule otherwise, litigation finally would end only when a party ran out of counsel whose knowledge and imagination could conceive of different theories of relief based upon the same factual background."

In Sutphin vs Speik, 15C2d195, the rule is as follows: "If the matter was within the scope of the action, related to the subject matter and relevant to the issues, so that it could have been

the judgment is conclusive on it despite the fact that it was not in fact expressly pleaded or otherwise urged. Hence the rule is that the prior judgment is res judicata on matters which were raised or could have been raised on matters litigated or litigable."

Counsel for defendants shall prepare judgment of dismissal herein in favor of their clients.

CERTIFICATE OF MAILING, June 25, 1976/sKaycind.

cc Minta H. Reichel, 1945 Shasta St., Redding, CA.

Laughlin, Craig & Christensen, 45 Main St., Chico

California 95926

Rich, Fuidge, Marsh & Morris, Inc. P.O. Drawer

"A", Marysville, CA 95901

/s/ _____

R.W. ABBE, Judge

APPENDIX - MM

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SHASTA

Minute Bk. 121

DEPT II

HON. R.W. ABBE, Judge

DATE: Aug. 20, 1976

#54513

MINTA H. REICHEL,

Plaintiff,

VS

CITY OF REDDING, et al,

Defendants

NATURE OF PROCEEDINGS --- RULING ON DEMURRER

For the same reasons as set forth in the ruling on demurrer made herein on June 24, 1976, the demurrer of the City of Redding is sustained without leave to amend.

CERTIFICATE OF MAILING - Aug. 20, 1976; J.Wion, dep.

cc: Minta H. Reichel, P.O. Box 2304, Redding, CA

Earl D. Murphy, City Hall, 760 Parkview Ave.
Redding, CA. 96001

/s R.W. ABBE, Judge

APPENDIX - NN

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SHASTA

Minute Book 112

DEPT. I

page 263

Jan. 20, 1977

HON. R.W. ABBE, Judge

#54513

FILED MAN. 20, 1977, Doss; dep. cl.

MINTA H. REICHEL,

Plaintiff,

VS

CITY OF REDDING, et al,

Defendants.

NATURE OF PROCEEDINGS - ORDER

The motion of the plaintiff herein filed on December 27, 1976 is denied on the grounds that this Court has no jurisdiction to grant such motion, even if it were inclined to do so.

CERTIFICATE OF MAILING: Jan 20, 1977, J.Wion, d.c.

cc: Minta H. Reichel; Earl D. Murphy; Rich, Fudge,
Marsh & Morris, Ind; Laughlin, Craig & Christensen

supra; /s/ R.W. ABBE, JUDGE

APPENDIX - 00

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SHASTA

Minute Book 102

DEPT. II

Page 508

Date Oct. 12, 1973 HON. R.W. ABBE, Judge

#42361 FILED: Oct. 12, 1973, /s/ G. Spalding, d.cl.

MINTA H. REICHEL,

Plaintiff,

vs

CITY OF REDDING, et al

Defendants.

NATURE OF PROCEEDINGS

O R D E R

The request of plaintiff for Findings of Fact and Conclusions of Law, filed herein on September 28, 1973, is denied. The Court advises plaintiff that Findings of Fact and Conclusions of Law will not be prepared in this case.

cc: Minta H. Reichel, 3061 Fulton Ave. Sacto, CA 95821
 Clyde Small, P.O. Box 2256, Redding, CA 96001
 Maynard Craig, P.O. Box 676, Chico, CA, 95926
 Roland Iverson, P.O. Drawer A, Marysville CA
 /s/ R.W. ABBE, Judge

VERIFICATION

State of California County of Shasta:

I, the undersigned, am the petitioner in this action:

I have written the above petitions for Writ of Certiorari and Writ of Mandamus and /or in the alternative, Prohibition, and for the Motions as herein presented and know their contents. The foregoing documents are true of my own knowledge, except as to those matters that are stated in it on my information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the above is true and correct.

DATED:

April 14, 1974
Minta H. Reichel
 MINTA H. REICHEL

Appearing in Propria Persona

APPENDIX

Real Parties in Interest being:

TOCHER AND GAZZIGLI
P. O. Box 2256
Redding, CA 96001
Telephone (916) 241-6900

Representing:
CITY OF REDDING

CITY OF REDDING EMPLOYEES:
Carl Arness
Jack Lang
Engward Nielsen
Robert Galusha

ROLAND K. IVERSON, JR.
Rich, Fuidge, Marsh & Morris, Inc.
P. O. Box Drawer A
Marysville, CA 95901
Telephone (916) 742-7371

Representing:
Willard M. Woodward and Jane E.
Woodward, his wife, Eugene Lavoy
Nichols and Tammy Joy Nichols, his
wife, Woodward and Nichols a co-
partnership

LAUGHLIN, CRAIG & CHRISTENSEN
45 Main Street
Post Office Box 676
Chico, CA 95027
Telephone: (916) 343-5875

Representing:
Ochinero Construction Company, Inc.
Edward H. Ochinero and Beatrice
Ochinero, his wife.

Randall J. Presleigh
1743 Yuba Street
Redding, CA 96001
Telephone (916) 243-5600

Representing
CIBULA & CIBULA

David R. Frank
L. Alan Swanson Deputy County Counsel
Attorneys for California Shasta County
Shasta County Court House
Court Street,
Redding, CA 96001 Telephone (916) 246-5609

Representing
California Shasta County Judges Et al
CIVIL S 79-73-TJM

Wilfred Kramer, Clerk
Court of Appeals
of the Third Appellate District
of the State of California
Library and Courts Building
Sacramento, CA 95814
(916) 445-4677

California Supreme Court
350 McAllister Street
San Francisco, CA

Telephone (415) 557 0587

MINTA H. REICHEL,
Appearing in Propria persona
P.O. Box 2304
Redding, CA. 96001
Telephone (916) 241-6772

April 20, 1979

Clerk of the Court
of the United States
Supreme Court,
Washington DC.

Re: MINTA H. REICHEL, petitioner, filing Motion for leave to file
petitions enclosed herein

Dear Sir:

Enclosed is a check in the amount of one hundred dollars (\$100.00)
filing fee required to file the petitions enclosed herein, includ-
ing one original copy and forty copies, and proof of service for the
real parties in interest as stated on page 130 of the petition here-
with, as follows:

CALIFORNIA Supreme Court, 350 McAllister Street, San Francisco, CA.
Telephone (415) 557-0587

Clerk of the Court of Appeals of the Third Appellate District,
of the State of California, Library and Courts Building,
Sacramento, CA 95814---Telephone (916) 445-4677

David R. Frank, L. Alan Swanson, Deputy Counsel
representing California Shasta County Judges et al,
(Civil S79-73-TJM-)

United States District Court of the Eastern District,
650 Capitol Mall, Sacramento, Ca.,
Telephone (916) 440-2171

Richard Brennan, Shasta County Clerk,
Court Street, Redding, CA. 96001
Telephone (916) 246-5631

Randall J. Presleigh, 1743 Yuba Street, Redding, CA 96001
Telephone (916) 243-5600
Representing Alvin M. Cibula, et al

Nels Christensen, Laughlin, Craig & Christensen
Post Office Box 676, Chico, CA 95027
Telephone (916) 343 - 5875
representing Ochinero Construction et al

Roland K. Iverson Jr., Rich, Fuidge, Marsh & Morris, Inc.
P.O. Box Drawer A, Marysville, CA 95901
Telephone (916) 241-6900
Representing Willard M. Woodward and Jane E. Woodward
Eugene Lavoy Nichols and Tammy Joy Nichols and
Woodward and Nichols, a co-partnership

MINTA H. REICHEL, non-lawyer in propria persona, continued page 2
Clerk of the Court of the United States Supreme Court, Washington D.C.

Ronald Fuller, Tocher and Gazzigli, P.O. Box 2256, Redding, CA 96001
Telephone (916) 241-6900
Representing City of Redding et al,

I, the undersigned, declare under penalty of perjury that I am a citizen
of the United States and a resident of Shasta County of the State of
California.

I am over 18 years of age and a party to the within action as a non-lawyer
litigant in propria persona within this entitled action.

On April 20, 1979, I served the within as above entitled, and of page 130
of the enclosed 40 copies of the petitions, copies of the enclosed peti-
tions as stated on the original and in this letter enclosed in the orig-
inal petition.

I, the undersigned, certify under penalty of perjury that I am a party
to the within action; that I mailed or have personally served the within
a true and correct copy of the enclosed document above named, in the
United States Post Office, San Francisco, California, enclosed in sealed
envelopes with postage thereon prepaid.

DATED

April 20, 1979

MINTA H. REICHEL
Appearing in propria persona

April 20, 1979

Also enclosed herewith are certified copies of the following actions
which petitioner would pay to have returned after the Court has made
determinations in the above entitled petitions as requested.

The following are enclosed:

California Shasta County Action #42361- one (1) Clerk's Transcripts
3 CIVIL 14495 two (2) Reporters Transcripts
and accompanying briefs----- one (1) Appellant's Brief
one (1) Respondents Brief
one (1) Appellant's Reply Brief

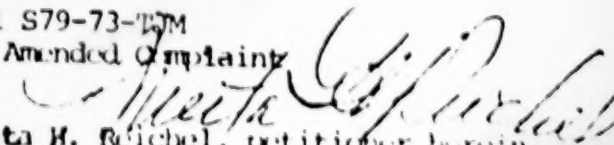
California Shasta County Action #54512 -one (1) Clerk's Transcripts
3 CIVIL 16644 one (1) Reporter's Transcripts
copies of Appellant's documents

California Shasta County Action #54513 one (1) Clerk's Transcripts
one (1) Reporter's Transcripts
one (1) Appellant's Brief
one (1) Respondents Brief

California Shasta County Action #58025 one (1) Clerk's Transcripts
3 CIVIL 17535 one (1) Reporter's Transcripts
one (1) Appellant's Brief
one (1) Respondent's Brief

United States District Court Action #Civil S79-73-TM
Complaint, Motion to dismiss, First Amended Complaint

Dated

April 20, 1979

Minta H. Reichel, petitioner herein